Wednesday,
17th November, 1954

LOK SABHA DEBATES

(Part I—Questions and Answers)

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EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

LOK SABHA DEBATES

Dated: 02.12.2014

(Part I—Questions and Answers)

LOK SABHA

Wednesday, 17th November. 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*].

ORAL ANSWERS TO QUESTIONS

FOREIGN UNDERTAKINGS IN INDIA

*88. **Shri S. N. Das:** Will the Minister of **Finance** be pleased to state:

(a) whether any suggestion, that in future foreign interests desiring to set up or expand any industrial undertaking in India should be required to offer to the Indian public at least one third of the capital raised in India, has been received and considered by Government; and

(b) if so, with what result?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). No such specific suggestion seems to have been received, but from time to time suggestions have been made advocating imposition of a ceiling on the proportion of the foreign capital in new projects of foreign investment. The underlying objective of these suggestions has been already accepted by Government in principle and ordinarily Government desire that the majority interest in ownership and effective control of such undertakings should remain in Indian hands. But no rigid percentage has been laid down and in practice each case is examined on its own merits and exceptions to the ordinary rule have been frequently made wherever considered necessary and beneficial in the national interests.

Shri S. N. Das: May I know the extent of investments made by foreign interests during this year, and the extent of facilities thereon?

Shri C. D. Deshmukh: I require notice of the question.

Shri S. N. Das: May I know, in recent months, or during the current year, whether there have been any special facilities given to foreign interests to invest money in India?

Shri C. D. Deshmukh: No additional special facilities have been given.

Shri V. P. Nayar: The hon. Minister said that no specific suggestions have been made in respect of the capital invested or proposed to be invested. Could I know whether any specific suggestions have been made to restrict foreign investment on industries which are declared to be essential industries?

Shri C. D. Deshmukh: I do not know of any such suggestions. Of course, hon. Members opposite have thrown out suggestions of this kind from time to time.

औद्योगिक वित्त निगम

*८९. **श्री एम० एल० द्विवेदी :** क्या वित्त मंत्री यह बताने की कृपा करेंगे :

(क) औद्योगिक वित्त निगम द्वारा दिये गये ऋणों में से कितने प्रतिशत ऐसे हैं जिनके चुकाये जाने की आशा नहीं हैं, और

(ख) अब तक चुकाये गये ऋणों की कुल राशि कितनी हैं ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) No loan can be adjudged by the Corporation as finally unrealisable until the securities obtained by the Corporation for it are disposed of and the amount realised from the securities is found to be less than the amount outstanding to the Corporation. This stage has not been reached in respect of any loan so far.

(b) Rs. 1,28,85,606/- upto 30th June, 1954.

Shri M. L. Dwivedi: May I kr what are the companies or firms which are defaulting in payment so far, and if any action is taken by Government to realise the dues?

Shri A. C. Guha: I think it would not be in the interests of those companies to disclose the names. I can only say that there are only ten companies which have been defaulters in payment of some of their instalments, not all instalments.

Shri M. L. Dwivedi: What is the total sum of money which is still outstanding against the companies?

Shri A. C. Guha: Against a company or all companies?

Shri M. L. Dwivedi: All companies.

Mr. Speaker: He means the defaulting companies.

Shri M. L. Dwivedi: Yes, Sir. The defaulting companies.

Shri A. C. Guha: For interest, it will be Rs. 11,42,000, and for principal, it is Rs. 19,88,000. I think this figure should be compared with the amount due—Rs. 11,42,000 out of Rs. 1 crore due on account of interest, and Rs. 19,88,000 out of about Rs. 2 crores due for repayment of the principal.

Shri M. L. Dwivedi: May I know if any penalty has been prescribed by Government for the defaulting firms in case they do not pay the loan in time?

Shri A. C. Guha: I cannot understand what the hon. Member means by penalty, but every effort is being made to realise the amount. I think the hon. Members know that in one case the Corporation has taken over the concern, that is, the Sonepur Glass Works.

Shri Sarangadhar Das: What is the present position about the particular glass works in Calcutta?

Shri A. C. Guha: The hon. Member is anticipating a question which will be coming later on.

TAXATION ENQUIRY COMMISSION

***91. Shrimati Tarkeshwari Sinha:** Will the Minister of Finance be pleased to state:

(a) whether the Taxation Enquiry Commission has submitted its report;

(b) if not, when it is likely to be submitted; and

(c) how many States have been visited so far by the Commission?

The Minister of Finance (Shri C. D. Deshmukh): (a) No, Sir.

(b) By December, 1954.

(c) All Part 'A' and Part 'B' States; the representatives of Part 'C' States met the Commission in Part 'A' and Part 'B' States adjacent to them.

Shrimati Tarkeshwari Sinha: May I know whether Government propose to publish the report immediately after receiving the report, or, do they propose to reserve that report to be published during the budget period?

Shri C. D. Deshmukh: Neither, Sir. We shall choose an appropriate time for publishing the report.

Shri N. M. Lingam: May I know whether the recommendations of the Commission will be taken into consideration in framing budget proposals for the next year?

Shri C. D. Deshmukh: Yes; effort will be made to do so.

Shri Bhawanji: Was there any representative from the Part C State of Kutch who met the Commission?

Shri C. D. Deshmukh: I require notice of that question.

Shrimati Tarkeshwari Sinha: May I know what is the criterion for Government to publish this report at the appropriate time?

Shri C. D. Deshmukh: Prudence, Sir.

LINGUISTIC COMPLAINTS

***95. Shri Sadhan Gupta:** Will the Minister of Education be pleased to refer to the answer to a supplementary question on starred question No. 274 asked on the 23rd February 1954 and state:

(a) the nature of complaints received against the Uttar Pradesh Government regarding the Urdu language;

(b) whether such complaints have been received against any other State also;

(c) if so, the names of such States and the nature of the complaints received against each of them; and

(d) the action taken in this matter apart from and independent of a reference to the State Government concerned?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) to (c). Two statements are laid on the Table of the Sabha. [*See* Appendix I, annexure No. 21.]

(d) Such complaints are usually referred to State Governments, moreover the complaints received upto August, 1949, were placed before a Conference of Education Ministers and a Resolution was unanimously passed by that Conference about the policy to be followed regarding medium of instruction in schools which was referred to State Governments for implementation.

Shri Sadhan Gupta: May I know what was the resolution passed by the Education Ministers' Conference regarding the policy of medium of instruction?

Dr. M. M. Das: It was in August, 1949.

Shri Sadhan Gupta: What was the policy?

Dr. M. M. Das: It is a long list. Shall I read it?

Mr. Speaker: He may give it in brief.

Dr. M. M. Das: It was decided at the meeting that so far as primary education is concerned, every student has got a right to be taught in his own mother tongue. If in any school, the mother tongue of the student is not the regional language, then, if there are ten such students in a class and forty in the School, then in that school, separate arrangements have to be made for teaching them in their mother tongue. So far as the regional language is concerned, it should be introduced not earlier than Class III and not later than the end of the junior basic education period. In the secondary stage, if the number of students belonging to the minority languages is such as to conduct a separate school, and if such school is established by private persons, then Government shall have to give grants and other facilities as it gives to other institutions.

Shri Sadhan Gupta: I find that in the statement about West Bengal, it is said that in the Sakhawat Memorial Girls' School, Urdu has been continued for a year for Urdu speaking people. Am I to understand that after that period, the West Bengal Government intends to abolish that, and in that case, what does the Central Government propose to do?

Dr. M. M. Das: In that particular institution, the number of students speaking Urdu is very small, so as not to justify a separate arrangement for teaching Urdu. So, when the matter was referred to the State Government, the State Government said that for one more year they would continue teaching Urdu.

Shri B. S. Murthy: May I know as to whether any decision has been taken in choosing the language in bilingual areas?

Dr. M. M. Das: As I have said, the decisions of the Education Ministers' Conference covers all these matters.

UNLICENSED FIRE-ARMS

***96. Dr. Ram Subhag Singh:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that a drive to collect unlicensed fire-arms left in the hands of villagers during the last World War has been launched in the hilly districts of Assam;

(b) if so, how many persons have so far surrendered their unlicensed fire-arms; and

(c) the number of fire-arms which have so far been surrendered to the police?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The information has been called for from the Government of Assam and the Adviser to the Governor of Assam, and will be laid on the Table of the House in due course.

Dr. Ram Subhag Singh: When was this drive launched and how long will it continue?

Shri Datar: Information for that very purpose has been called for.

Dr. Ram Subhag Singh: Even that information is not available?

Shri G. P. Sinha: Is there any proposal to relax the rules for granting licenses to villagers in view of the fact that there has been an increase in crimes?

Shri Datar: There has been no such proposal for relaxation. Government are considering whether any amendments to the rules are required.

U. S. TECHNICAL AND ECONOMIC AID

***98. Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the Government of the United States of America have revised their schemes of technical and economic aid to India; and

(b) if so, what are the details of the revised schemes?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). The technical and economic aid to India from the United States is provided pursuant to Agreements signed between the two Governments in December, 1950 and January, 1952 (copies of which are in the Library of the House). The Agreement signed in January 1952 provided that the assistance will be in the form of grant-in-aid and loans in proportions to be agreed to between the two Governments. Uptil 1953-54 the assistance from the United States was on a 100 per cent. grant basis. The pattern of the assistance in the current year *i.e.*, for the fiscal year, 1st July, 1954 to 30th June, 1955, is that a major portion of the development assistance will be in the form of loans and approximately 50 per cent. of the total assistance will be in the shape of surplus agricultural commodities like wheat and cotton.

Shri T. N. Singh: May I know what will be the position of unutilised portions of the loans and grants in the previous years—up to March 1953-54?

Shri C. D. Deshmukh: Those are mostly commitments, that is contracts have been entered into for purchase of material and equipment and so on and I doubt whether there is any unutilised portions to speak of.

Shri T. N. Singh: According to the progress report on the Five Year Plan, certain grants are not being utilised owing to delays which are natural when grants are made and the schemes are not ready. I am referring to that position.

Shri C. D. Deshmukh: What I meant was although the money might not have been drawn actually, purchase contracts are made in accordance with agreements arrived at in which case the amount is committed, though not drawn. It is possible that the reference the hon. Member made is to that amount which is committed, but not drawn.

Shri G. P. Sinha: Has any offer been made by America on technical and economic aid for the erection of two steel plants in India?

Shri C. D. Deshmukh: No, Sir. These offers are not made for any particular projects. The totals are announced to us.

INDIAN CURRENCY TO PORTUGUESE POCKETS

*99. **Shri Raghuramaiah:** Will the Minister of **Finance** be pleased to state:

(a) whether any request has been received by Government urging the issue of instructions to the Reserve Bank of India to stop Foreign Banks remitting Indian Currency from the Union territory to the Portuguese Pockets in India; and

(b) if so, what action Government propose to take in the matter?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). As an anti-smuggling measure, the Government of India are considering the question of restricting remittances to the Portuguese Possessions in India by banks in this country. Suggestions have also been received urging such restrictions.

Shri Raghuramaiah: May I know, Sir, what exactly is the present position about remittances? Is there any limitation at all?

Shri C. D. Deshmukh: The answer suggests that at present remittances are allowed and they have to be restricted.

CROSSWORD PUZZLES

*101. **Shri Dabhi:** Will the Minister of **Home Affairs** be pleased to refer to the reply to starred question No. 1134 asked on the 20th September, 1954 and state when the proposed legislation for putting an end to the evil of Crossword puzzles and similar other prize competitions is likely to be introduced in Parliament?

The Deputy Minister of Home Affairs (Shri Datar): The question of suitable Central legislation is under active consideration of Government.

Shri Dabhi: May I know whether this legislation would totally ban crossword puzzles, or would merely regulate them?

Shri Datar: That question is under consideration: in all probability it will be regulated.

Shri Dabhi: May I know whether it is a fact that the Press Commission have also unanimously recommended that crossword puzzles should be banned by law?

Shri Datar: We have recommendations from various bodies and all of them are under consideration.

Mr. Speaker: Let us go to the next question.

Shri Nambiar: This is a very serious question.

PART 'B' STATES AUDIT OFFICES

*102. **Shri Krishnacharya Joshi:** Will the Minister of **Finance** be pleased to state:

(a) what steps Government have taken to tone up Part B States Audit Offices; and

(b) how far the language difficulty in Part B States has been solved?

The Deputy Minister of Finance (Shri M. C. Shah): (a) The following steps have been taken to improve the working of the Part 'B' States' Audit Offices:—

(i) Transfer and deputation of qualified staff and officers from Part 'A' State Audit Offices to Part 'B' State Offices and training in other

Audit Offices of the staff recruited for Part 'B' States;

(ii) Re-organisation of working methods of Part 'B' State Audit Offices on the lines of Part 'A' State Audit Offices; and

(iii) more frequent inspections by the Director of Inspection under the Comptroller and Auditor General of Part 'B' State Audit Offices than in the case of Part 'A' State Audit Offices.

(b) It is presumed the question relates to language difficulty felt by the Audit Offices in Part 'B' States. Some of the Part 'B' States continue the use of the regional language to a large extent in accounts and documents coming up for audit as their staff taken over from the former State establishments in many cases are ignorant of any language except the regional one. The Audit Offices, however, comprise men drawn from all States who may not always have sufficient knowledge of the particular regional language in question. The constitutional position is that the accounts and documents rendered to audit should for the present be in English but the Comptroller and Auditor-General has been trying to avoid inconvenience to the States as far as possible consistently with the discharge of his statutory duties and appropriate arrangements are made by him in this behalf, in consultation with the Chief Ministers of the concerned States, wherever practical difficulties have arisen.

Shri Krishnacharya Joshi: May I know whether Government propose to introduce Hindi also?

Shri M. C. Shah: That will take time. Under article 343 (1) and (2) of the Constitution the English language is to be utilised for 15 years. Audit is a central subject. Therefore wherever Hindi is used, the Comptroller and Auditor-General is trying to put people knowing Hindi as far as possible, or translations are asked for.

Shri Krishnacharya Joshi: May I know whether in Hyderabad State some persons who do not know English are still in service?

Shri M. C. Shah: I require notice.

Shri T. N. Singh: Is it against the Constitution to make use of the regional language in keeping accounts of the regions concerned?

Shri M. C. Shah: Audit is a Central subject. The article 343 of the Constitution lays down that for a period of fifteen years the accounts will be kept in English. But wherever there is difficulty—and there were difficulties in one or two States like Madhya Bharat and Saurashtra—the Comptroller and Auditor-General is trying to remove those difficulties.

Shri C. R. Narasimhan: Is it proposed to have Hindi numerals in regard to figures?

SCHOLARSHIPS TO NON-SCHEDULED CASTE STUDENTS

***103. Shri Bibhuti Mishra:** Will the Minister of **Education** be pleased to state:

(a) whether Government are contemplating any scheme to award scholarships to deserving poor students other than Backward Classes; and

(b) if so, when that scheme is expected to come into force?

The Parliamentary Secretary to the Minister of Education (Dr. M. M Das): (a) and (b). Yes. There is a proposal under consideration for the award of Post-Matric Merit Scholarships to deserving poor students of all communities.

श्री बिभूति मिश्र : यह जो बैकवर्ड क्लास लोगों के अलावा और लोगों को छात्रवृत्तियां दी जायंगी, इनके लिए आबादी का ख्याल रखते हुए सरकार रुपया देंगी या कुछ कम रकम देंगी ?

منسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹیفک ریسرچ (مولانا آزاد): ابھی معاملے پر سوچ وچار ہو رہا ہے - کوئی صاف بات نہیں کہی جاسکتی -

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** The matter is still under consideration and nothing definite can be said at present].

श्री विभूति मिश्र : यह विचार करने में सरकार कितना समय लेगी ?

مولانا آزاد : نہیں کہا جا سکتا -

[**Maulana Azad:** Nothing can be said.]

Sardar A. S. Saigal: May I know when the scheme is going to be implemented?

Dr. M. M. Das: The scheme is at present with the Planning Commission and their approval is awaited.

SANSKRIT UNIVERSITY

***104. Dr. Rama Rao:** Will the Minister of **Education** be pleased to state:

(a) whether Government have requested the All India Sanskrit *Sammelan* to submit a scheme to start a Sanskrit University;

(b) if so, whether the *Sammelan* has submitted such a scheme to Government; and

(c) if the reply to part (b) above be in the affirmative, the details of the scheme?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No, Sir.

(b) and (c). Do not arise.

Dr. Rama Rao: May I know if the Government has any scheme to increase the number of Chairs for Sanskrit or strengthen them in the universities?

Dr. M. M. Das: We have already added one seat of Sanskrit in some university, most probably Andhra—I do not remember exactly. Moveover, Government is giving grants to a large number of institutions who are carrying on research work in Sanskrit.

Shri K. K. Basu: May I know whether there is any proposal to establish a Sanskrit University in West Bengal?

Dr. M. M. Das: So far as the Central Government is concerned. we have received no such proposal.

सेठ गोविन्द दास : अभी माननीय मंत्री ने इस सवाल के भाग (क) के उत्तर में बतलाया कि गवर्नमेंट को संस्कृत सम्मेलन ने इस सम्बन्ध में कुछ नहीं लिखा हैं लेकिन मैं जानना चाहता हूं कि क्या स्वतंत्र रूप से इस पर भारत सरकार विचार कर रही हैं कि भारतीय सांस्कृतिक दृष्टि से एक संस्कृत का विश्वविद्यालय भारत में होना नितान्त आवश्यक हैं ?

Dr. M. M. Das: That is altogether a different question. I have said that we have received no proposal from the All India Sanskrit Sammelan.

ANTHROPOLOGICAL EXPEDITIONS TO ANDAMANS

***105. Shri S. C. Samanta:** Will the Minister of **Education** be pleased to state:

(a) whether any anthropological expeditions have recently been carried out in the Andaman Islands especially in Little Islands amongst the aborigines;

(b) if so, with what results;

(c) whether it is a fact that blood test of Onges was made;

(d) if so, whether any racial connection with any other people living in any part of the world have been traced; and

(e) what has been the fate of the 'friendly tribes' of the islands who once numbered several thousands?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes.

(b) Friendly relations have been established with the Onges not only on the coastal belt but also in the interior of Little Andaman Island. The Little Andaman was crossed for the first time from East to West. Information has been collected about some aspects of the mode of life of the Onges. Besides some anthropometric and blood tests have been done.

(c) Yes.

(d) The results of the blood test indicate that the Onges have racial affinities with the dark coloured peoples of Oceania. and especially the Papuans.

(e) Unfortunately the Great Andamanese (excluding the Jarwa and North Sentinalese) have now been reduced to a very small community.

Shri S. C. Samanta: May I know whether any sub-station of the Department has been established at Port Blair and, if so, whether contract with the Jarwas and other tribes have been made?

Dr. M. M. Das: A sub-station of the Anthropological Department has been established at Port Blair and the work of anthropological investigation in the Andaman Islands is being continued.

Shri S. C. Samanta: May I know whether the Onges with whom contact has been made knew agriculture, or the use of steel? What was their method of living and what kind of food they took?

Dr. M. M. Das: I beg to have notice for such details.

Dr. Rama Rao: In connection with part (c) of the question, have the Government found any special group in the blood of these Onges other than the recognised four groups which are present all over the world?

Dr. M. M. Das: The blood test that has been carried out proved that these Onges have got some racial affinity with the dark coloured peoples of Oceania and the Papuans.

राष्ट्रीय रक्षा अकादमी

*१०५. **सेठ गोविन्द दास** : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) राष्ट्रीय रक्षा अकादमी को देहरादून से हटा कर पूना के समीप खड्गवासला ले जाने के निश्चय के क्या कारण हैं, और

(ख) क्या उस नगर में विशेष सैनिक प्रशिक्षण देने का प्रबन्ध किया गया है ?

The Minister of Defence Organisation (Shri Tyagi): (a) and (b). This decision was taken in 1948 on the recommendations of a Committee which was set up in 1945. It was published as a Resolution in the Gazette of India on the 2nd April, 1948. The main reason for this was that it was considered desirable to have an Academy where the cadets of all the three Services could have their initial training together. Khadakvasla was selected in accordance with the recommendations of the Committee. The Joint Services Wing at Dehra Dun was started purely on a temporary basis pending the completion of the project at Khadakvasla. It will be closed as soon as the new Academy starts functioning at Khadakvasla.

The question whether the Military Wing where Army cadets get their final training after passing out of the Joint Services Wing should be moved to Khadakvasla or should continue to be located at Dehra Dun is still under consideration.

सेठ गोविन्द दास : जहां तक इस विभाग के देहरादून से हटाये जाने का सम्बन्ध है इस पर कितना और खर्चा केन्द्रीय सरकार को करना पड़ेगा और कितना अब तक खर्च हो चुका है ?

श्री त्यागी : क्या आप यह जानना चाहते हैं कि देहरादून से इस मिलेटरी विंग के खड्गवसला ट्रांसफर करने में कितना खर्च होगा ?

सेठ गोविन्द दास : जी नहीं, मेरा मतलब है कि इस विभाग के वहां देहरादून से खडगवसला हटाने में कितना खर्च होगा, कितना हो चुका है और कितना और होगा ?

प्रधान मंत्री तथा वैदेशिक कार्य एवं रक्षा मंत्री (श्री जवाहरलाल नेहरू) : अगर आप इसके लिये

दूसरा सवाल करें तो आपको वे रकमें बता दी जायेंगीं कि कितना अब तक खर्च हो चुका हैं और कितना और खर्च होगा ।

श्री भक्त दर्शन : क्या मैं जान सकता हूं कि देहरादून में जो स्थान खाली होंगे उनका उपयोग करने के सम्बन्ध में सरकार द्वारा क्या कोई निर्णय किया गया हैं ?

श्री त्यागी : देहरादून का यह ज्वाइन्ट सर्विसेज विंग जिन मकानात में हैं वह आरज़ी किस्म के बने थे लड़ाई के जमाने में, लेकिन फिर भी उनके खाली हो जाने पर उनको इस्तेमाल में लाने के लिये कोई न कोई इन्तजाम किया जायगा । इस वक्त मैं नहीं बता सकता कि कोई मजबूत इन्तजाम होगा लेकिन एक सेंटर के भेजे जाने की तजवीज पर सरकार गौर कर रही हैं ।

HISTORY OF FREEDOM MOVEMENT IN INDIA

***108. Shri M. S. Gurupadaswamy:** Will the Minister of **Education** be pleased to state:

(a) the total amount of expenses incurred on the compilation of the History of 'Freedom Movement in India' by Government upto the 30th September, 1954;

(b) by when is the work expected to finish; and

(c) the number of whole-time employees appointed for the purpose?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Rs. 2,05,651/5/-.

(b) By the end of 1955-56.

(c) 30.

Shri M. S. Gurupadaswamy: May I know what is the total amount that has been allotted for this purpose?

Dr. M. M. Das: The total amount in this year's budget allotment is Rs. 1.5 lakhs.

Shri M. S. Gurupadaswamy: May I know who are the people in the Committee to compile this history of 'Freedom Movement in India'?

Dr. M. M. Das: The Board of Editors has been set up with the following persons:

Dr. Syed Mahmud M.P. ... Chairman.

Acharya Narendra Deva, M.P.
Shri Balwantrai Mehta.
Dr. S. N. Sen.
Prof. M. Habib.
Prof. Nilakanta Sastri.
Shri D. V. Podhar.
Shri Pheroze Chand, and

Shri S. N. Ghose...Member and Hony. Secretary.

Shri M. S. Gurupadaswamy: May I know how many meetings this Committee had held and also whether any chapters have been finished?

Dr. M. M. Das: The information as to how many meetings have been held is not with me at present. But so far as the progress of the work is concerned, the first phase covering the period upto 1884 has been completed and is now under examination and further scrutiny. The Board of Editors has also collected much valuable material and is still collecting.

Shri Sadhan Gupta: The Education Minister, as it is reported in the Press, said in a public utterance that the history will reveal a wonderful story of how a nation won freedom through non-violence. Are we to understand that the Board which has to compile the history has been given the policy by the Central Government, namely, to prove through history that freedom has been won by a particular kind of ideology?

Dr. M. M. Das: It is up to the Board to go through the whole question of the freedom movement in this country and they are the authorities to decide what particular action should be taken.

Shri Nambiar: Somebody went to Europe......... .

Mr. Speaker: We will go to the next question. He is entering into an argument.

ANTHROPOLOGICAL INVESTIGATION

***112. Shri N. M. Lingam:** Will the Minister of **Education** be pleased to state:

(a) the names of areas and tribes among whom field investigations for the study of anthropology and other subjects were carried out during the year 1953-54;

(b) the results of these studies; and

(c) how Government propose to utilise the results of these studies?

The Parliamentary Secretary to the Minister of Education (Dr. M.M. Das): (a) to (c). A statement giving the requisite information is placed on the Table of the House. [*See* Appendix I annexure No, 22.]

Shri N. M. Lingam: In answer to part (b) of my question the reply is given in the statement that "the data collected as a result of these investigations are being studied and analysed and it will take some time before the reports are ready". But in answer to question No. 105 relating to anthropological expeditions to Andamans the reply was given that as a result of these investigations friendly relations have been established between the Onges tribe and their neighbours in the Andaman Islands. May I know how these two replies square with each other?

Dr. M. M. Das: The "analysis and study of data" mentioned in reply to the present question apply to all the investigations that have been carried out in different parts of India. So far as the Andamans are concerned the investigation is still being carried on, but from the data that has already been collected we have come to certain conclusions.

Shri N. M. Lingam: May I know the objectives before the Government in selecting areas and tribes for investigation and how they are being made use of for the welfare of these tribes?

Dr. M. M. Das: That question has been answered. The reports are being analysed and studied. When the study is complete another report will be published, and then the question of doing what is necessary will arise.

Shri N. M. Lingam *rose—*

Mr. Speaker: The investigations are not yet complete. What is the good of putting questions on that?

NATIONAL MONUMENTS

***113. Shri C. R. Narasimhan:** Will the Minister of **Education** be pleased to state:

(a) the general basic principle observed in the selection of monuments of national importance in Part 'B' and Part 'C' States; and

(b) whether there is any instance of a national monument being administered concurrently with the State Government concerned?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Outstanding national importance from the point of view of history, architecture, and archaeology.

(b) No.

Shri C. R. Narasimhan: Were all monuments, including minor ones, in some States integrated completely, while only a few monuments from other States have been integrated?

Dr. M. M. Das: I take it the hon. Member wants to know the reason why this has been done. As I have said, it depends upon whether the monument is nationally important or not. It may be that in some States most of them are nationally important; in others most of them are not.

Shri C. R. Narasimhan: May I know if in Gwalior all the monuments have been integrated, while in the State of Mysore which has quite ancient and historical and valuable monuments only a few have been integrated?

Mr. Speaker: I think it is a matter of argument.

Shri C. R. Narasimhan: Only the fact I want to know.

Shri T. K. Chaudhuri: There is an Advisory Committee to the Archaeological Department in which some Members of Parliament are also taken. Is the policy of declaration of a monument as a national monument decided by that Committee?

Dr. M. M. Das: So far as my information goes, and I speak subject to correction this is decided by the Act. According to the Act there are certain criteria, as I have said, by which we judge whether a monument is nationally important or not.

Shri C. R. Narasimhan: How many monuments were integrated in Mysore and how many in Gwalior?

Dr. M. M. Das: I beg to ask for notice for that.

OTTAWA CONFERENCE

***114. Shri T. K. Chaudhuri:** Will the Minister of **Finance** be pleased to state:

(a) the decisions that were arrived at the Colombo Plan Consultative Conference at Ottawa during October, 1954; and

(b) to what extent these decisions affect the Dollar holdings of India?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) The main purpose of the annual meeting of the Consultative Committee on Colombo Plan is to prepare a progress report of the development in the region with programmes for the future. No decisions as such are reached at the Consultative Committee meetings. The Report as adopted at the Session will be published by the end of the year on a date agreed to by all the member Governments.

(b) Does not arise.

Shri T. K. Chaudhuri: In view of the fact that the Colombo Plan Consultative Conference was sandwitched between a meeting of the Governors of the International Bank for Reconstruction and Development and the Commonwealth Finance Ministers' Conference both of which meetings were attended by our Finance Minister, will it be possible for the Finance Minister to make a comprehensive statement covering the decisions arrived at these Conferences which relate to sterling convertibility and other questions relating to our sterling and dollar holdings?

Mr. Speaker: It is a question for the Finance Minister.

The Minister of Finance (Shri C. D. Deshmukh): I understand the hon. Member to ask: because of this, will I make a statement on convertibility?

Shri T. K. Chaudhuri: What I wanted to know was, will it be possible...

Mr. Speaker: I think it will be better if he gave special notice. If it is admissible I will admit it. He will make those statements, if admitted.

HINDI

***116. Shri Keshavaiengar:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that Government propose to appoint a commission for evaluating the progress of Hindi under Article 344 of the Constitution; and

(b) if so, what are the proposed terms of reference to the commission?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). The matter will be considered at the appropriate time.

As article 344 of our Constitution says that the President shall, by order, constitute a Commission, there is nc choice left with the Government. The Government has to appoint the Commission.

And in relation to part (b) of the question, the terms of reference of this Commission have been described in detail in clause (2) of the same article of our Constitution.

श्री केशवैयंगार : क्या मैं जान सकता हूं कि स्टेट गवर्नमेन्ट्स और सेन्टर के बीच के पत्र व्यवहार में कुछ प्रगति हुई है ?

Dr. M. M. Das: Yes, Sir, there has been some improvement.

सेठ गोविन्द दास : जहां तक इस कमिशन का सम्बन्ध है क्या इस बात का भी कोई विचार हो रहा है कि इस में ऐसे ही महानुभाव मुकर्रर किये जायें जिन पर कि हिन्दी संसार का विश्वास हो ?

شکشا و پراکوتک سدسادھ، تتھاویگیانک
گویشنا منتری (مولانا آزاد) : جب وقت آئے گا تو ان ساری باتوں پر دھیان دیا جائے گا۔

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** All these things will be considered at the due time.]

SETTLEMENT OF OUTSTANDING CLAIMS (U.K.)

***118. Shri Morarka:** Will the Minister of **Finance** be pleased to state:

(a) whether the attention of Government has been drawn to the recommendation made in the Ninth Report of the Public Accounts Committee that our High Commissioner in London should be asked to pursue the question of early settlement of outstanding claims against the U.K. Government which amounted to £3,788,100 at the end of March 1953; and

(b) if so, what action has been taken in the matter?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Yes.

(b) Out of the total amount of £3,788,100, a sum of £632,900 has since been cleared and a further clearance of £35,400 is expected shortly. The balance of £3,119,800 is made up of (1) claims amounting to £2,558,000 representing shipping charges incurred on the despatch of stores on behalf of H.M.G. after 1st April 1947 and (2) other claims of a miscellaneous nature amounting to £561,800. The U.K. Government have not yet accepted the claims on account of shipping charges on the grounds that the information supplied in support of the claims was inadequate to satisfy themselves as to their liability for those charges and that they included items for which they were not *prima facie* liable. They, therefore desired to have further details before they could accept these claims. Special arrangements have been made to collect the requisite details and vouchers required by the U. K. Government and the work is expected to be completed shortly. As soon as the necessary data become available suitable instructions will be issued to our High Commissioner in London to take up the matter again with the U.K. Government at a suitably high level.

The clearance of the debits amounting to £561,800 in respect to items of a miscellaneous nature is being progressed by the High Commissioner in consultation with the Commonwealth Relations Office.

Shri Morarka: According to us. when did this amount become due and payable to us by the U.K. Government?

Shri A. C. Guha: This is the amount concerning the period 1947-48, and we sent our claims to the U.K. Government in 1949. Since then negotiations have been going on.

Shri Morarka: Since this amount became payable in 1947-48 and since it has not been paid till 1954, may I know whether any interest is payable by the U.K. Government from the date the amount became due till the date of its payment?

Shri A. C. Guha: I cannot give him any definite reply, but I do not think in such cases any interest can be charged. Anyhow, this will be a subject matter for discussion and final decision.

Shri Morarka: In view of the objections raised by the United Kingdom Government and some further proofs were required, may I know why it took the Government of India as long as seven years to submit those proofs for settlement of this amount which has been outstanding for a long time?

Shri A. C. Guha: I have stated that these claims relate to the period 1947-48 and we sent our claims to the United Kingdom Government in 1949 and since then negotiations have been going on. They have asked for certain further information, and I think the hon. Member will agree that during those days when the transfer of power was being effected, all the details might not have been available. But the Public Accounts Committee has suggested that this should be taken up at a high level, and the Government is also contemplating to take up this matter at a high level.

Shri K. K. Basu: How long did the United Kingdom Government take to file their objections after the submission of our claim?

Shri A. C. Guha: This repreats almost the same question. I can only say that we sent our claims in 1949 and in 1950-51 they might have sent their replies and in 1951-52 also there has been correspondence all through and this is still going on as a sort of continuous and current discussion. This is a complicated matter

Shri K. K. Basu: One question, Sir.

Mr. Speaker: Next question.

LIMITED COMPANIES

***120. Shri S. N. Das:** Will the Minister of **Finance** be pleased to state:

(a) the number of cases in which Limited Companies have sought the permission of Government for issue of debentures, giving the amount for which permission has been sought so far during the current year;

(b) the number of cases in which permission has been granted;

(c) the total amount of debentures subscribed in these cases; and

(d) the range of interest rate which these debentures carry?

The Deputy Minister of Finance (Shri M. C. Shah): (a) During the period 1st January to 31st October, 1954, 25 applications for the issue of debentures of a total value of Rs. 17:46 crores were received.

(b) 17.

(c) Government have not yet received this information from all the companies concerned.

(d) 4½ per cent. to 7 per cent.; but in the majority of cases the rate of interest varied between 5 per cent. to 6 per cent.

Shri S. N. Das: May I know whether there is any machinery at the centre to collect figures as to the total amount of debentures issued by limited companies, both with the permission of the Government and without the permission of the Government, and if so, what is the amount of debentures issued during the period?

Shri M. C. Shah: In each year?

Shri S. N. Das: During this period.

Shri M. C. Shah: During this period I have already said applications were received and 17 applications were granted, and it comes to about more than Rs. 15 crores.

The Minister of Finance (Shri C. D. Deshmukh) *rose*—

Shri S. N. Das: May I know, Sir....

Mr. Speaker: Order, order.

Shri C. D. Deshmukh: I think the question was whether we have any machinery. In terms of condition No. 2 of the standard conditions attached to consent orders, the authority of the consent is valid for a period of 24 months from the date of issue. Reports of subscribed and paid-up capital against these consents are required to be submitted at the end of the first twelve months and at the end of every six months thereafter. We have so far received a report only from one company indicating a subscription of Rs. 75 lakhs.

Shri S. N. Das: May I know, Sir, whether there has been any occasion to reduce the rate of interest as suggested by any company and if so what is that rate of interest that was reduced?

Shri M. C. Shah: I require notice, but subject to correction, there is no such case of a reduction in the rate of interest.

Shri Morarka: The 17 companies to which permission has been given, what is the total amount for which this permission is given?

Shri M. C. Shah: I have stated. Rs. 15·96 crores.

ORDNANCE FACTORIES

***123. Shri Amjad Ali:** Will the Minister of **Defence** be pleased to state:

(a) whether service revolvers and sporting rifles are manufactured in the Ordnance Factories;

(b) if so, the names of the factories manufacturing them;

(c) the annual production of these articles;

(d) the approximate cost of these service revolvers and sporting guns; and

(e) whether the import of these items has been completely stopped?

The Deputy Minister of Defence (Shri Satish Chandra): (a) As there was no demand for service revolver so far, this weapon was not produced, but spare parts of service revolvers are manufactured as and when they are required. As regards rifles, while all demands of service rifles are met from Ordnance Factories, sporting rifles for civilian use as also the ·22 inch match shooting rifle are under development.

(b) Rifle Factory, Ishapore and Small Arms Factory, Kanpur

(c) Production of sporting arms will necessarily be related to demand. The production of the sporting rifle will be some 2,500 annually and of the shot gun 500 per month. Present out-put is about 200 guns per month.

(b) ·315-inch rifle .... Rs. 225/-
12 Bore D.B.B.L. Shot Gun Rs. 400/-

(e) The question of stopping imports of Shot Guns of the type competing in sale with the indigenously produced 12 bore gun, is under active consideration.

Shri Amjad Ali: With regard to (c) what is the present installed capacity?

Shri Satish Chandra: There is plenty of machine capacity to meet any demands of the items that we are undertaking.

Dr. Lanka Sundaram: To meet the public interest!

FOREIGN PUBLICATIONS

***125. Dr. Ram Subhag Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that a large number of foreign publications are at present circulated among Defence personnel by Foreign Missions or their Information Services in Delhi;

(b) if so, the names of the Foreign Missions or their Information Services which are at present circulating their publications among Defence personnel; and

(c) whether Defence personnel can freely and directly approach the Foreign Missions or their Information Services for getting any type of literature?

The Minister of Defence Organisation (Shri Tyagi): (a) No.

(b) Does not arise.

(c) No.

Dr. Ram Subhag Singh: What is the procedure laid down by Government for the supply of foreign publicity material to the defence services personnel?

Shri Tyagi: According to the procedure laid down, all units and formations have to forward their requests for such material through normal official channels and they are processed. They come to the Armed Forces Headquarters and trimmed here and then only the publicity literature is permitted to enter the formations.

Dr. Ram Subhag Singh: Does it mean that after receiving those requests, the defence services personnel are allowed to get some foreign publicity material?

Shri Tyagi: In fact, the policy is not to allow unchecked circulation of foreign publicity material of a propagandist nature, but in respect of certain literature which pertain to training, education etc., the Armed Forces Headquarters look into the requests which come from various units; they are examined and those requests are forwarded.

Dr. Ram Subhag Singh: Since when is this policy of not allowing unchecked entry of foreign publicity material being pursued by the Government?

Shri Tyagi: I remember that in February, 1952, the Ministry of External Affairs had advised us to this effect and action was taken accordingly.

Dr. Lanka Sundaram: Is the Minister satisfied that no attempt is made or is possible for foreign Missions to reach our defence personnel through the Indian post direct without reference to the indenting of the various units?

Shri Tyagi: Sometimes periodicals and journals are forwarded by various Information Branches of the Embassies here. They are received, but the units have been instructed to take the permission of the Armed Forces Headquarters before they put it on their library.

Dr. Lanka Sundaram: My question was whether direct contact with the individuals of our defence services is sought to be maintained by foreign Embassies and Missions. That is the point I was making.

Shri Tyagi: No, Sir, except on courtesy calls when it is desirable and new military *attaches* of various Embassies come. It is customary that they pay courtesy calls and such calls are returned. I do not think there is any other direct contact.

Dr. Lanka Sundaram: May I know, Sir..........

Mr. Speaker: Order, order.

Shri Gidwani: In view of the reply that circulation of periodicals and journals did take place, is it not an admission that some publications were being sent to the military direct?

Shri Tyagi: These Public Information Offices have branches attached to various Embassies which are free to send any literature wherever they choose, and so sometimes some journals and periodicals were received.

Shri Gidwani: Was it from the American Embassy?

Shri Tyagi: From various Embassies.

Dr. Lanka Sundaram: May I put one specific question? Is there any machinery available to screen the receipt by invididual personnel of the Defence Services, material of the type we are discussing now?

Shri Tyagi: We maintain an Intelligence Department, and all information pertaining to these matters are received by the Armed Forces Headquarters.

Dr. Lanka Sundaram: Can the hon. Minister give an assurance to the House........

Mr. Speaker: I am going to the next question.

BURMA DEBTS

*127. **Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state:

(a) what part of our debts to Burma has been adjusted in the price of rice supplied to us; and

(b) what is the balance at present?

The Minister of Finance (Shri C. D. Deshmukh): (a) Presumably the questioner refers to Burma's debt to India.

Burma has supplied so far about 3·9 lakh tons of rice which will result in an adjustment of about Rs. 6·7 crores against her debt to India.

(b) The balance is about Rs. 13 crores.

पंडित डी० एन० तिवारी : क्या अवशिष्ट की किश्तों के लिए कोई समय निर्धारित किया गया है ?

श्री सी० डी० देशमुख : जो वायदा किया गया है उसमें किश्त की बाबत भी शामिल है ।

पंडित डी० एन० तिवारी : क्या बकाया रुपया अगली चावल की सप्लाई में मिनहा होगा ?

श्री सी० डी० देशमुख : यह चावल की बिक्री पर मुनहसिर है ।

Dr. Rama Rao: May I know how much of the original debt, which accumulated interest, has been written off, and how much was given away as our contribution under the Colombo Plan?

Shri C. D. Deshmukh: I think it is best for Government to place, on a suitable occasion, a statement on the Table of the House, explaining the whole question. It should have been done; I am not quite sure whether we have done it in the past. There was a debt of Rs. 48:15 crores. It was reduced to Rs. 20 crores. But I should like to supply the details in the statement that I shall place before the House.

Pandit D. N. Tiwary: May I know whether the balance will be adjusted in the next supply of rice, or will be paid in cash?

Shri C. D. Deshmukh: That is what I said earlier. It is dependent on further sales of rice.

अनुसंधान छात्रवृत्तियां

*१२८. **सेठ गोविन्द दास :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि १९५४ में अब तक हिन्दी और संस्कृत के लिए अलग अलग कितनी कितनी छात्रवृत्तियां दी गयी हैं ?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): If the reference is to award under the scheme of Government of India Research Scholarships in Humanities, of the scholarships awarded during the current year, 10 are for research in Sanskrit and 4 for research in Hindi.

I may add that three scholarships under other schemes have also been given, two for Sanskrit and one for Hindi. The two Sanskrit scholarships have been awarded to two foreigners under the reciprocal scholarship scheme. And the one scholarship for carrying on research in Hindi for the Ph.D. examination, has been given under the Scheduled Castes scholarship scheme.

सेठ गोविन्द दास : सन् १९५३ में ये छात्रवृत्तियां कितनी थीं, १९५४ में ये कुछ बढ़ी हैं या उतनी ही हैं ?

Dr. M. M. Das: It has increased.

सेठ गोविन्द दास : कितनी बढ़ायी गयी हैं ?

Dr. M. M. Das: In the year 1953, the number of scholarships that were given for research in Sanskrit was three, and that for Hindi also three. This year, the number for Sanskrit is ten, and that for Hindi is four.

PRESERVATION OF ANCIENT PAINTINGS

*131. **Shri C. R. Narasimhan:** Will the Minister of **Education** be pleased to state:

(a) whether the Government of India have trained competent officials in the latest methods of preservation of ancient paintings before launching upon large scale work of preservation of paintings at Ajanta; and

(b) if not, whether they have any scheme to train people in this connection?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes.

(b) Notwithstanding the reply to part (a) of the question, the Government of India have under consideration a proposal to send officers of the Department abroad for advanced training, each year.

Shri C. R. Narasimhan: May I know whether people already engaged in that kind of work will be sent, or people who are entirely novices would be sent?

Dr. M. M. Das: The Chemistry Branch of the Department of Archaeology is headed by a man who has got foreign training. He was trained in U.K., and he is well-known in the modern up to date methods of preservation of ancient paintings.

Shri C. R. Narasimhan: What are the countries to which they will be sent?

Dr. M. M. Das: There is a proposal now before the Ministry for sending more officers abroad for training. It has not yet been implemented.

Shri N. M. Lingam: Since it may take some time to train these people, may we know the reason for the hurry on the part of these people to purchase some art objects like the paintings of Leonardo da Vinci?

Dr. M. M. Das: As I have already said, the man who is in charge of the Chemistry Branch of the Department of Archaeology is a well-trained man, who got his training in U.K., and he knows all the methods of preservation of paintings, under modern conditions.

SMUGGLING

*133. **Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state:

(a) the total value of smuggled goods seized so far in 1954 on the Eastern and Western Indo-Pakistan borders; and

(b) the number of smugglers arrested and prosecuted during the above period?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). The required information is being collected and will be placed on the Table of the Sabha in due course.

G. D. PILOT COURSE

*134. **Shri Amjad Ali:** Will the Minister of **Defence** be pleased to state:

(a) whether there is any proposal to stop the Direct Entry Course for G. D. Pilot Branch in the Indian Air Force;

(b) if so, when it will be completely stopped;

(c) whether there is any proposal to increase the number of seats for Air Force in Joint Services Wing Courses so that all the seats in Air Force Academies can be filled up by those candidates; and

(d) if not, what other methods are to be adopted to fill all the vacancies?

The Deputy Minister of Defence (Sardar Majithia): (a) No.

(b) Does not arise.

(c) No.

(d) Other methods adopted are:—

(i) Direct entry through Union Public Service Commission Examination.

(ii) Commissioning suitable airmen.

(iii) Recruitment of N.C.C. Cadets.

WRITTEN ANSWERS TO QUESTIONS

GAZETTED OFFICERS

***90. Sardar Hukam Singh:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of Gazetted Officers in the Central Government as on the 31st of October, 1954 who are on token pay of Re. 1/- per mensem; and

(b) whether there are any Gazetted Officers working in a purely honorary capacity?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The required information is being collected and will be laid on the Table as soon as possible.

CANTONMENT BOARDS

***92. Shri Madhao Reddi:** Will the Minister of **Defence** be pleased to State:

(a) whether it is a fact that displaced employees of Cantonment Boards have not been absorbed or given alternative jobs so far;

(b) whether it is also a fact that all displaced Government employees have been provided with jobs; and

(c) if so, the reasons for the discrimination?

The Deputy Minister of Defence (Sardar Majithia): (a) Almost all the employees of Cantonment Boards who migrated to India and applied for employment have been absorbed in Cantonment Board Service in India.

(b) Yes.

(c) The distinction arose on account of the fact that employees of Cantonment Boards were not Government servants but were to be treated at par with employees of local bodies whereas employees of Military Lands and Cantonments Service were regular Central Government servants, who had a right of option.

SMUGGLING OF WATCHES

***94. Th. Jugal Kishore Sinha:** Will the Minister of **Finance** be pleased to state:

(a) the number of smuggled watches which were seized by the Government during the period from the 1st April, 1954 to the 30th September 1954;

(b) the names of countries from which they were smuggled;

(c) whether it is a fact that smuggling from Pakistan is on the increase; and

(d) if so, the reasons therefor and the steps taken by Government to prevent the same?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The number of watches seized during the period 1st April, 1954, to 30th September, 1954, was 4,294.

(b) These watches were imported from almost all parts of the world, particularly the Portuguese and erstwhile French Possessions in India, the Persian Gulf areas, the U.K., the Straits Settlements, Malaya and Hongkong.

(c) The indications are that smuggling of watches from Pakistan is on the decline.

(d) Does not arise.

SEMINAR-*cum*-CAMP OF HEADMASTERS

***107. Shri Jethalal Joshi:** Will the Minister of **Education** be pleased to state:

(a) whether a Seminar-*cum*-Camp of Headmasters of secondary education schools of Bombay, Saurashtra and Cutch was held in Mahabaleshwar in October 1954; and

(b) what other States have held such seminars as per recommendations of the Head Masters' seminar held at Taradevi in 1953?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) A statement is laid on the Table of the Sabha. [*See* Appendix 1, annexure No. 23.]

COMMITTEE ON RURAL HIGHER EDUCATION

***109. Shri Rishang Keishing:** Will the Minister of **Education** be pleased to state:

(a) whether any committee has been set up to formulate a policy for encouraging higher education in rural areas;

(b) if so, the names of the members of the committee;

(c) the terms of reference of the committee;

(d) when it will start functioning; and

(e) when an interim report is expected?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (c). Attention is invited to the reply given to starred Question No. 952 in the Lok Sabha by Sarvashri Shivananjappa and Jangde on 15-9-54.

(d) The Committee has commenced its work from 1-11-54.

(e) Their report is expected by the end of January, 1955.

ABOLITION OF PROMOTION EXAMINATIONS

***110. Shri R. K. Chaudhuri:** Will the Minister of **Education** be pleased to state:

(a) whether Government contemplate abolishing annual Promotion Examinations in Middle English and High Schools; and

(b) if so, whether Government have consulted the Secondary Education Board, the Universities concerned and eminent educationists on the subject?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) No.

(b) The question does not arise.

AGRICULTURAL TRAINING FOR *Ex*-SERVICEMEN

***115. Shri Bahadur Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether any basic agricultural training course has been started for *ex*-servicemen; and

(b) the number of *ex*-servicemen who have joined the basic courses for training?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes. The course of training is common for civilian trainees and *ex*-Servicemen.

(b) According to the information received so far, 42 *ex*-Servicemen have joined the basic courses in the following States:—

Assam	4
Orissa	4
Travancore-Cochin ..	20
Bhopal	12
Himachal Pradesh ..	1
Vindhya Pradesh ..	1
Total	42

COMPOSITE ALL-INDIA INDEX

***121. Shri T. B. Vittal Rao:** Will the Minister of **Finance** be pleased to state:

(a) whether any decision has been taken in regard to the compilation and integration of the "All India Middle Class Index" and the "All India Working Class Index" into a "Composite All India Index", and

(b) if not, the reasons therefor?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Yes Sir, Certain tentative conclusions have been reached. The Labour Bureau in the Ministry of Labour has, in consultation with the Central Statistical Organisation, brought out an interim All-India Working Class Index based on the existing cost of living index numbers of working classes in urban centres. This series is being regularly published in the Indian Labour Gazette. A similar attempt could not be made with regard to the All-India Middle Class Index, as the necessary price data and the weighing diagram was not available.

The Joint Conference of Central and State Statisticians held towards the end of 1953, reviewed the existing Cost of Living Index Numbers, and felt that for many of them the weights had become much out of date, on account of the changes in the consumption pattern during the war and postwar years and recommended that fresh family budget enquiries should be conducted all over India on a uniform basis for purposes of revising the existing cost of living index numbers. A Technical Advisory Committee, with the Statistical Adviser to the Cabinet as the Chairman, has been set up to pursue the matter. This Committee has decided to compile some sets of fresh indices, and plans for conducting the enquiries are being drawn up. In the meanwhile, steps are being taken to effect possible interim improvements in the existing cost of living index numbers.

The question of a composite all India index can be considered only after the revised basic series for the working classes and middle classes are available.

CANTONMENT BOARDS

*122. **Shri Madhao Reddi:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the contribution towards Cantonment Boards Employees' Provident Fund from Cantonment Boards is half anna to the Employees' share of one anna in a rupee; and

(b) if so, the reasons for having a scale for Cantonment Board employees different from those of the other Government employees?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes.

(b) The Cantonment Board employees are not Government servants. However, in addition to the contributions made by the Cantonment Boards at the rate of half an anna in a rupee, the Cantonment Boards make a further contribution in favour of their employees in the form of bonuses payable on the completion of 10, 15, 20, 25 and 30 years cumulative approved service of the employees, which privilege is not enjoyed by Government servants.

INSURANCE ACT

*124. **Th. Jugal Kishore Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether any representation has been received from the Insurance Underwriters Association in respect of the amendments to the Insurance Act;

(b) if so, what are the main points raised in the representation; and

(c) whether any decision has been taken thereon?

The Deputy Minister of Finance (Shri M. C. Shah): (a) and (b). Yes Sir; a representation suggesting the re-amendment of section 44 of the Insurance Act 1938 as amended by the Insurance (Amendment) Act 1950 was received from the Association in June 1951 and again in August 1952.

(c) As the amendments proposed are not considered to be of an urgent nature, it has been decided to consider the points raised in the representation when amendment of the Insurance Act, 1938 is next considered by the Government.

ILLEGAL ENTRY FROM PAKISTAN

*126. **Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that many cases of illegal entry into India of persons without valid travel documents have been detected on the Indo-Pakistan borders; and

(b) if so, the number of such cases that were reported during the period from the 1st of July to the end of October, 1954?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The number of cases reported during the period is 3277.

INCOME-TAX CONCESSIONS

***130. Shri R. K. Chaudhuri:** Will the Minister of **Finance** be pleased to state whether any general or specific direction has been given not to take any coercive measures for realisation of arrears of income-tax in the areas affected by recent floods and against individuals who had suffered from serious damage to property and heavy losses in business due to floods?

The Deputy Minister of Finance (Shri M. C. Shah): No Sir.

DR. PETER MANNICHE'S TOUR OF INDIA

***132. Shri D. C. Sharma**: Will the Minister of **Education** be pleased to state:

(a) whether the recommendations made by Dr. Peter Manniche have been considered; and

(b) if so, the steps taken to implement them?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). The suggestions made by Dr. Peter Manniche have been referred to the Committee on Higher Rural Education appointed by the Government of India for consideration of a suitable pattern for higher education in rural areas.

LIGNITE

97. Shri V. P. Nayar: Will the Minister of **Natural Resources and Scientific Research** be pleased to lay on the Table of the House a statement giving the details of the latest analysis of lignite in (i) Neiveli Area (ii) Varkala formations of Travancore-Cochin State (iii) Beypore and other places in Malabar and similar details of analysis of lignite ash of the above places?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): A statement giving the information available is attached. [*See* Appendix I, annexure No. 24.]

INDIAN STUDENTS IN U. S. A.

98. Shri D. C. Sharma: Will the Minister of **Education** be pleased to state the annual average number of students going to the United States of America for higher education since 1948?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Approximately 460. (Average of figures for the period from January 1948 to December, 1953).

GIFTS FOR FLOOD RELIEF

99. Dr. Rama Rao: Will the Minister of **Home Affairs** be pleased to refer to the reply given to S. Q. No. 1128 asked on the 20th September, 1954 and state.

(a) the names of the foreign countries from where gifts for flood relief have since been received;

(b) the source, form and the value of each country's gift; and

(c) the organisations through which the gifts were distributed among the people?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The information asked for is already being collected with reference to part (c) of Shri Buchhikotaiah's Starred Question No. 1128 answered on the 20th September, 1954, and a statement will be laid on the Table of the House as soon as possible.

INDUSTRIAL CONCERNS

100. Shri V. P. Nayar: Will the Minister of **Finance** be pleased to lay on the Table of the House a statement showing the following details about the foreign owned business and industrial enterprises in India which have passed from foreign to Indian hands since 15th August, 1947 to 15th October, 1954 (year-wise):

(a) the names of the companies and the names of the Indian companies which took over;

(b) the amount of capital invested by the companies in India;

(c) the price paid by Indians on acquisition;

(d) the fields in which the companies were operating before changing hands;

(e) the amount allowed to be transferred to foreign countries by each foreign concern after acquisition by Indians;

(f) the money re-invested by such foreign concerns in India after the acquisition by Indians; and

(g) the total turn over of business in the last year of foreign management and the turn over in 1953-54?

The Minister of Finance (Shri C. D. Deshmukh): (a) to (g). Information is being collected and will be laid on the table of the House in due course to the extent to which it can be collected.

COMMITTEES

101. Shri V. P. Nayar: Will the Minister of **Education** be pleased to lay on the Table of the House a statement showing the following details:

(a) the names of the various committees set up by the Ministry since 15th August, 1947 upto 15th October, 1954;

(b) the terms of reference to each committee;

(c) the persons nominated to each such Committee including *ex*-Officio officers; and

(d) the total expenditure on each committee including the salary, allowances, honoraria and other establishment charges and also the cost of stationery and printing of reports?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (d). The information is being collected and will be placed on the Table of the House.

NAVIGATION SCHOOLS

102. Sardar Iqbal Singh: Will the Minister of **Defence** be pleased to state:

(a) the number of Navigation schools giving Naval training in India: and

(b) the different courses and qualifications required for them?

The Deputy Minister of Defence (Sardar Majithia): (a) One in Cochin.

(b) 1. Following Courses are conducted in this School:—

Officers

(i) Navigation/Direction courses for Sub-Lieutenants on entry, and ratings promoted to Officer Cadre.

(ii) Refresher Courses in Navigation.

Ratings

(i) Radar Plotter Course 3rd class.

(ii) Quarter Master Course 1st and 2nd Class.

(iii) Navigator's Yeoman Course.

2. Qualifications required are:

Officers

Knowledge of Mathematics up to Intermediate Standard.

Ratings

Matriculation Standard.

FOREIGN INVESTMENT

103. Shri S. N. Das: Will the Minister of **Finance** be pleased to state:

(a) what is the total foreign investment in the three oil refineries in India;

(b) whether these Companies have issued debentures; and

(c) if so, the total amount subscribed giving separate figures for Indian and foreign subscription?

The Minister of Finance (Shri C. D. Deshmukh): (a) The figure is likely to vary between Rs. 35 and 38 crores. The actual figures will be known only after the work on the refineries is completed.

(b) Two of these companies have issued debentures.

(c) Indian	Rs. 10,03,20,000.
Foreign	Rs. 1,96,80,000

सोडापुर ग्लास वर्क्स लिमिटेड (ऋण)

*१०४. श्री एम० एल० द्विवेदी : क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) सोडापुर ग्लास वर्क्स लिमिटेड का प्रबन्ध औद्योगिक वित्त निगम द्वारा सम्भाल लिये जाने के बाद से उस कारखाने में उत्पादन प्रारम्भ करने के लिये क्या कार्यवाहियां की गयी हैं और उत्पादन कब तक प्रारम्भ होगा,

(ख) इस कारखाने में काम चालू करने के लिये किन लोगों से बातचीत की गयी और उसका क्या परिणाम रहा, और

(ग) निगम को इस कारखाने में उत्पादन प्रारम्भ करने के लिये, ऋण के रूप में दी गयी राशि के अतिरिक्त, और कितना खर्च करना पड़ेगा ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) When the Corporation took over the management of the Company on 1st November, 1952 with the consent and Co-operation of the Managing Agents it **was not working.** The factory was then put into production on the 3rd January, 1953. The Managing Agents were removed and the management of the Company was taken over formally on the 19th March, 1953. After working the factory for about four months, it was found that the production was still not up to the rated capacity, and the American Technical Expert employed at the factory advised closing down of the factory and adoption of various reforms, *e.g.*, modifications to the furnace, adding two more glass drawing machines covering the sides of the machine room and the furnace with asbestos sheets, etc. Production at the factory was, therefore, stopped on the 20th July, 1953. Modifications which included the reconstruction and lengthening of the furnace. were completed by the end of May, 1954.

The factory is now ready for operation.

(b) The Industrial Finance Corporation has set up a committee for negotiating with interested parties with a view to get the Sodepur Glass Works in production. It would not be proper to disclose the stages of the negotiations being conducted by the committee before they are **finalised.**

(c) The factory is now ready for production and no further amount other than that required for working capital would have to be spent when production is undertaken.

ASSISTANCE RECEIVED AND GIVEN

105. **Sardar Hukam Singh:**
Shri D. C. Sharma:
Seth Govind Das:

Will the Minister of **Finance** be pleased to state:

(a) the amount of assistance received by India from Foreign Countries under various schemes and Plans during the last twelve months in the form of:—

(i) equipment for training institutions;

(ii) technical experts;

(iii) training facilities for Indian students in various countries; and

(b) the extent of similar aid that India has given to other countries during the same period?

The Minister of Finance (Shri C. D. Deshmukh): (a) During the 12 months ended 30th September, 1954, the technical assistance received by India Assistance Administration Programme, the Point Four Programme and the Technical Cooperation Scheme of the Colombo Plan, with which the Ministry of Finance are concerned, was as shown below:—

(i) *Equipment for training institutions:*

Equipment worth Rs. 29,629/- from the United Kingdom, under the Colombo Plan, for the Vallabhbhai Patel Chest Institute, University of Delhi.

(ii) *Technical Experts:*

U. N. Technical Assistance Administration Programme	... 2
Point Four Programme	... 23
Colombo Plan	... 26

(iii) *Training facilities for Indian Students:*

U.N. Technical Assistance Administration Programme.	... 29
Point Four Programme.	... 80
Colombo Plan.	... 68

(b) Training facilities for 112 nominees of the South and South East Asian Countries and services of 3 Indian experts to these countries were provided under the Colombo Plan.

KALYANVAL COMMITTEE'S REPORT

106. Shri S. N. Das: Will the Minister of Defence be pleased to refer to the reply given to starred question No. 233 on the 30th August 1954; regarding Kalyanvala Committee's recommendations and state whether any further recommendations have since been accepted and implemented by Government and if so, what are they?

The Deputy Minister of Defence (Shri Satish Chandra): Government have since accepted in entirety two more joint recommendations and appropriate orders for their implementation have been issued. A statement giving brief particulars of the recommendations is placed on the Table of the Lok Sabha. [*See* Appendix I. annexure No. 25.]

The only outstanding joint recommendation which is still under consideration of Government relates to the classification of Laboratory Attendants as Non-Industrial. Government orders are expected to issue shortly.

केन्द्रीय पुरातत्व मंत्रणा समिति

१०७. श्री एस० एन० दास : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) केन्द्रीय पुरातत्व मंत्रणा समिति की पिछली बैठक में किन किन महत्वपूर्ण विषयों पर विचार हुआ था :

(ख) समिति ने किन किन विषयों पर किस प्रकार की सिफारिशें की हैं :

(ग) क्या सरकार ने इन सिफारिशों पर विचार करने के बाद इनके सम्बन्ध में कोई निर्णय किया हैं , और

(घ) यदि हां, तो वे क्या निर्णय हैं ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (d). A statement giving the requisite information is placed on the Table of the House. [*See* Appendix I, annexure No. 26.]

UNTOUCHABILITY

108. Pandit Munishwar Datt Upadhyay: Will the Minister of Home Affairs be pleased to state the number of prosecutions lodged by each State in 1953 and up to the end of September, 1954 for offences of untouchability?

The Deputy Minister of Home Affairs (Shri Datar): Detailed Information regarding the number of prosecutions launched by each State during 1953 is contained in Appendix III (Statements Nos. 1 and 2) at pages 243—245 of the Report of the Commissioner for Scheduled Castes and Scheduled Tribes for the year 1953, copies of which have already been supplied to all the members of Parliament and are also placed in the Library of the House. Similar information in respect of the year 1954 is being collected by the Commissioner for Scheduled Castes and

Scheduled Tribes and will be included in his Report for the year 1954.

CENTRAL BUREAU OF TEXT BOOK RESEARCH

109. **Shri V. P. Nayar:** Will the Minister of **Education** be pleased to state:

(a) whether the Central Bureau of Text Book Research set up at Delhi has research scholars conversant with the different languages which form the medium of instruction in the country; and

(b) if so, whether it is a fact that in text books, especially on Geography, in use in the current year, China is still referred to as the "land of famine"?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) The present staff of the Central Bureau of Text Book Research is conversant with the following languages:—

Hindi	Marhati
Urdu	Punjabi
Gujarati	English

(b) No such reference has been found in text Books on Geography and History that have been examined so far at the Bureau.

SANGEET NATAK AKADAMY

110. **Shri Krishnacharya Joshi:** Will the Minister of **Education** be pleased to state:

(a) the main activities of the Sangeet Natak Akadamy during 1954 so far; and

(b) the total amount spent during the same period?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) A statement is laid on the Table of the House. [*See* Appendix I, annexure No. 27.]

(b) A sum of Rs. 2,08,116/- has been spent from 1st January, 1954 to 30th September, 1954.

LOANS TO PUNJAB

112. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state the amount that Government granted to the Punjab State by way of loan and grant for the development of roads during the last five years?

The Minister of Finance (Shri C. D. Deshmukh): The amounts given to Punjab for road development in the past five years are:—

Grant	Rs. 47·89 lakhs.
Loan	Nil.

EXCISE DUTY ON TOBACCO

113. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state:

(a) the amount of Excise Duty realised on tobacco from Punjab during the year 1953-54; and

(b) the expenditure incurred on the Excise Establishments of the State during 1953-54?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). The excise duty on tobacco realised from the Punjab during 1953-54 amounted to Rs. 37·60 lakhs: the expenditure incurred on excise establishments during the same year was Rs. 6·84 lakhs.

ADMISSION TO PRIMARY AND SECONDARY SCHOOLS

114. **Shri S. C. Singhal:** Will the Minister of **Education** be pleased to state:

(a) whether Government are aware that admissions to Primary and Secondary schools in all the States have declined by about 10 per cent. this year; and

(b) the reason therefor?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). The matter concerns the State Governments.

SMUGGLING OF GOLD

115. Shri Gidwani: Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that a large quantity of smuggled gold was seized in Bombay in October, 1954;

(b) if so, the quantity so seized; and

(c) what further action has been taken to prevent smuggling?

The Deputy Minister of Finance (Shri A. C. Guha): (a) A substantial quantity of gold was seized.

(b) The quantity seized was 4,490·13 tolas.

(c) Stringent measures have been adopted to prevent smuggling of gold. All vessels on the regular run from the Persian Gulf and Africa (which is also a source of smuggled gold) are kept under guard and regular rummages carried out. Vessels arriving from the Far East are also similarly guarded and searched. The Customs intelligence staff also concentrate on obtaining information regarding these ships and members of their crew and regarding local bullion dealers and dalals who are concerned in the disposal of smuggled gold. Seizures are also made in town of gold suspected to have been smuggled. Besides these measures, regular sea and land patrols are carried out to prevent the smuggling of the precious metal.

POINT FOUR PROGRAMME 1954-55

116. Shri Nanadas: Will the Minister of **Finance** be pleased to state:

(a) whether any candidates have been selected for training in U.S.A. under the Point Four Programme for 1954-55;

(b) if so, the names of the persons selected and their occupations; and

(c) the subjects in which they are to receive training in the U.S.A.?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) and (c). A statement giving the names of the candidates selected, their occupations and subjects of training, is appended. [*See* Appendix I, annexure No. 28].

EMPLOYEES IN THE CENTRAL SECRETARIAT

117. Th. Lakshman Singh Charak: Will the Minister of **Home Affairs** be pleased to state:

(a) the number of married and unmarried employees in the Central Secretariat in all categories;

(b) the number of women employees in the same categories; and

(c) whether Government have any arrangements in taking census of this nature in the Secretariat, from time to time?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The information is being collected and will be laid on the Table of the House.

(c) No.

GOLD SMUGGLED FROM GOA

118. Shri R. N. Singh: Will the Minister of **Finance** be pleased to state the quantity of gold smuggled from Goa which was seized by the Custom authorities during the last two months?

The Deputy Minister of Finance (Shri A. C. Guha): The required information is being collected and will be placed on the Table of the Sabha in due course.

FOREIGN TECHNICIANS

119. Dr. Rama Rao: Will the Minister of **Education** be pleased to state:

(a) whether a Training and Orientation Centre for foreign technicians has been opened at the Delhi University;

(b) the name of the agency which has started this centre;

(c) the names of the foreign technicians who are attending the centre; and

(d) the purpose for which this centre has been started?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) The Delhi School of Economics under an agreement with the Ford Foundation and U.S. Technical Co-operation Mission in India.

(c) A list giving the names is laid on the Table of the Sabha. [*See* Appendix I, annexure No. 29].

(d) The purpose of the Centre is to provide "an Orientation Course on India" for the foreign technicians who come to India under the Technical Assistance Programme.

SMUGGLING OF GOLD

120. Shri Gidwani: Will the Minister of **Finance** be pleased to state:

(a) whether any quantity of gold and jewellery was seized by customs authorities while being smuggled to Pakistan during the years of 1949 to 1953;

(b) if so, the value of such seizure; and

(c) how much fine has been realised from the offenders?

The Deputy Minister of Finance (Shri A. C. Guha): (a) to (c). The required information is being collected and will be placed on the Table of the Sabha in due course.

PENSIONS

121. { **Shri Gidwani:**
Shri Jethalal Joshi:

Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that Government had accepted the responsibility of granting pensions to displaced Government servants for the services rendered by them in the provinces now in Pakistan;

(b) if so, how many displaced Government servants have been granted pensions; and

(c) the rules under which their pensions have been calculated and the percentage of it allowed to them?

The Deputy Minister of Home Affairs (Shri Datar): (a) Pending acceptance by the Government of Pakistan of pensionary liability for past qualifying service of the displaced Provincial permanent Government servants from Sind and North West Frontier Province now employed under the Government of India, it has been decided to sanction *ex-gratia* 'Provisional Pension Payments.'

(b) Information is being collected and will be placed on the Table of the House in due course.

(c) Instructions in this respect are contained in this Ministry's Office Memorandum No. 31/119/52-DGS, dated the 31st January, 1953, a copy of which was placed on the Table of the Lok Sabha on the 29th September, 1954.

REMITTANCES TO PAKISTAN

122. Shri Gidwani: Will the Minister of **Finance** be pleased to state:

(a) the total amounts of remittances sent by the nationals of India for the maintenance of their relatives in Pakistan during the years of 1949-50, 1950-51, 1951-52, 1952-53 and 1953-54; so far; and

(b) what amounts of remittances were received by the nationals of India from their relatives in Pakistan during the same period?

The Minister of Finance (Shri C. D. Deshmukh): (a) A statement is attached. [*See* Appendix I, annexure No. 30].

(b) Figures of such remittances are not available with the Government.

RESEARCH SCHOLARS

123. Shri Jhulan Sinha: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the facilities available to research scholars of the universities at the National Laboratories in the country; and

(b) how those have been availed of by the research scholars?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is attached. [*See* Appendix I, annexure No. 31].

SCHEDULED AREAS ORDERS, 1950

124. Shri Bheekha Bhai: Will the Minister of **Home Affairs** be pleased to state:

(a) the names of the States which have sent their requests for amending the Scheduled Areas Orders 1950; and

(b) what are the requirements for the declaration of particular areas as Scheduled Areas under the President's Orders 1950?

The Deputy Minister of Home Affairs (Shri Datar): (a) 1. Rajasthan.

2. Bombay.

3. Himachal Pradesh.

(b) Preponderance of Scheduled Tribes in the **Areas.**

राष्ट्रीय योजना ऋण

***१२५. श्री डामर :** क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) मध्यभारत की सरकार और वहां की जनता ने राष्ट्रीय योजना ऋण और प्रधान मंत्री सहायता कोष में कितनी कितनी राशि दी है, और

(ख) किन किन जिलों से इस ऋण और कोष में सब से अधिक राशि दी गयी है ?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Total subscription to the National Plan Loan tendered in Madhya Bharat amounted to about Rs. 40 lakhs. District-wise figures are not available.

Prime Minister's Relief Fund is not within the Government Account, and Government is, therefore, not concerned with the amount of contributions received therein.

छात्रवृत्तियां

१२६. श्री डामर : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि कितने छात्रों को केन्द्र द्वारा छात्रवृत्तियां दी जा रही हैं और स्वतन्त्रता मिलने के बाद से अब तक उन्हें कितनी राशि दी जा चुकी है ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): The information is being collected and will be laid on the Table of the House in due course.

UTILISATION OF GRANT BY MADRAS STATE

127. Shri Nambiar: Will the Minister of **Finance** be pleased to refer to the answer to starred question No. 1270 asked on the 23rd September, 1954 and state for what purpose and under what heads of accounts the sum **of Rs. 93,27,273 that lapsed unutilised** with the Government of Madras during the years 1950-51 to 1953-54, was sanctioned?

The Minister of Finance (Shri C. D. Deshmukh): A statement giving the required information is laid on the Table. [*See* Appendix I, annexure No. 32].

GRANTS TO THE CENTRAL UNIVERSITIES

128. Shri K. C. Sodhia: Will the Minister of **Education** be pleased to state:

(a) the total amounts of grant paid to each Central University during 1953-54 under (i) maintenance grant (ii) block grants (iii) grants for developmental schemes (iv) grants for libraries and laboratories (v) grants for development of Humanities (vi) for development of scientific departments (vii) grants for Fundamental Research; and

(b) whether any grants under any of the above heads were paid to any other Indian Universities and if so, how much to each and under what head?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the information is laid on the Table of the Sabha. [*See* Appendix I, annexure No. 33].

WOMEN OFFICERS

129. **Shri K. C. Sodhia:** Will the Minister of **Home Affairs** be pleased to state:

(a) the total number of women officers in (1) All India Services (2) Indian Foreign Service and (3) Central Secretariat Service;

(b) the number among them who are (i) married and (ii) with encumbrances; and

(c) the total length of service of each of these officers?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). A Statement giving the requisite information is laid on the Table of the House. [*See* Appendix I, annexure No. 34].

INCOME TAX AMENDMENT BILL

130. **Shri K. C. Sodhia:** Will the Minister of **Finance** be pleased to state:

(a) whether any special Income-tax Officers have been appointed to discharge additional duty imposed under Indian Income-tax Amendment Bill of 1954;

(b) if so, what is their number and jurisdiction entrusted to each;

(c) the total number of cases pending for disposal by them; and

(d) what means are going to be adopted to bring in more of such cases on file?

The Deputy Minister of Finance (Shri M. C. Shah): (a) Yes.

(b) Eight Income-tax Officers are at present dealing with these cases. The jurisdiction of the Income-tax Officers extends to all cases which have been entrusted to them under section 5(7A) of the Indian Income-tax Act.

(c) 184.

(d) Investigations by Income-tax authorities in the course of their duties.

देहाती विद्यालय

१३१. **श्री आर० एन० सिंह :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) सरकार ने देहाती विद्यालयों के संगठन तथा संचालन का अध्ययन करने के लिये किन किन देशों में शिक्षकों को भेजने का निर्णय किया हैं, और

(ख) इस प्रयोजन के लिये भेजे जाने वाले अध्यापकों की योग्यता क्या होगी ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) There is no such proposal under consideration.

(b) Does not arise.

EXPENDITURE ON GIRLS' EDUCATION

132. **Shri Ibrahim:** Will the Minister of **Education** be pleased to state:

(a) the total expenditure on Girls' Education in India during 1952-53 and 1953-54; and

(b) the number of Secondary Schools for girls which were opened in the Tribal Areas of the North East Frontier Agency during 1953-54?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Approximately Rs. 32 crores during 1952-53. Similar information for 1953-54 is not yet available.

(b) The required information is being collected and will be placed on the Table of the House as soon as it is received in this Ministry.

MICRO-FILM COPIES OF RARE MANUSCRIPTS

133. Shri N. M. Lingam: Will the Minister of **Education** be pleased to state:

(a) whether any micro-film copies of rare manuscripts have been prepared; and

(b) if so, the names of the manuscripts filmed so far?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) The details of the manuscripts microfilmed in the National Archives are as follows:—

(1) Gilgit manuscripts ... 61 items.

(2) Tibetan and Sanskrit manuscripts from Kashmir ... 509 volumes.

(3) Rajab Ali manuscripts from Punjab. ... 15 volumes.

(4) Manuscripts from Hyderabad exhibited in New Delhi ... 105 items.

(5) Historical and literary manuscripts in Persian, and Arabic from Raza Library, Rampur. ... 20 items.

(6) Babar Nama ... 1 manuscript.

In addition, certain manuscripts of the late poet Rabindra Nath Tagore from Vishwa Bharati were microfilmed.

The names of the individual manuscripts microfilmed will be made available if it is desired but the preparation of the list will involve considerable time and energy.

PUBLIC DEBTS

134. Shri N. M. Lingam: Will the Minister of **Finance** be pleased to state:

(a) the outstanding public debt of India as on the 31st March, 1954;

(b) what would be its position at the end of 1954;

(c) the nature and the condition of these loans;

(d) the purposes for which the loan has been utilised or the assets by which it is covered;

(e) the amount of uncovered debt as on 31st March, 1954 and its anticipated position on 31st March, 1955; and

(f) the amount of interest bearing obligations and the amount of interest yielding assets?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). The audited figures of India's Public Debt outstanding on the 31st March, 1954 are not yet available, nor is it possible at present to give a correct estimate of of the amount likely to be outstanding at the end of the current financial year. However the outstandings on the 31st March, 1954 and the 31st March, 1955, are, as stated at page 71 of the Explanatory Memorandum on the Budget of the Central Government for 1954-55, estimated at Rs. 2130·63 crores and Rs. 2406·08 crores, respectively.

(c) The bulk of the Public Debt of India represents market loans raised in India and England from time to time at various rates of interest and with varying maturity dates. A statement showing the rate of interest, date of issue, earliest date of maturity and estimated amount of each of such loans outstanding on the 31st March, 1954 may be found at pages 35-36 of the Explanatory Memorandum on the Budget for 1954-55.

The next important component of the Public Debt represents money raised by the issue of Treasury Bills to the public, the Reserve Bank and State Governments etc. These Treasury Bills are for 3 months and are issued at discount depending on the market conditions prevailing at the time of issue.

Other major items are the dollar loan taken from the Government of the USA for purchase of wheat and similar loans from the I.B.R.D. for purchase of railway locomotives and plant and equipment for the Damodar Valley Project and the Land Reclamation Scheme. The loan from the Government of USA carries interest at 2½% p.a. and the principal is repayable in 35 years beginning from 1955-56; those from the I.B.R.D. carry different rates of interest varying from 3½% to 4⅞% per annum and are repayable in periods ranging from 7 to 25 years.

(d) The public debt of India has been utilised mainly for the following purposes:

- (i) Railways.
- (ii) P & T & other Commercial Departments.
- (iii) Loans and Advances by the Central Government.
- (iv) Purchase of annuities for sterling pensions.
- (v) Subscription to the I.M.F. and World Bank.
- (vi) Other expenditure *e.g.* on civil works etc.

(e) About Rs. 597 crores on 31st March, 1954 and Rs. 668 crores on 31st March, 1955 as given at p. 72 of the Explanatory Memorandum on the Budget for 1954-55.

(f) The total amounts of interest bearing obligations and interest yielding assets on 31st March, 1955 are, as shown at p. 74 of the Explanatory Memorandum on the Budget for 1954-55, estimated at Rs. 3013·71 crores and Rs. 2251·84 crores respectively.

DISCOVERY OF MURALS

135. **Shri C. R. Narasimhan:** Will the Minister of **Education** be pleased to lay on the Table of the House a statement showing:

(a) the names of the places in India where murals (wall paintings) of national importance have been found;

(b) when these paintings were actually discovered and by whom;

(c) their condition at the time of discovery;

(d) their present condition;

(e) the methods adopted for their preservation and the results thereof; and

(f) the instances, if any, of structural temples with valuable paintings crumbling to pieces and the manner in which the problem has been faced?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (f). The information is being collected and will be laid on the Table of the House in due course.

UNIVERSITY GRANTS COMMISSION

136. **Shri Sanganna:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that the University Grants Commission has asked the Utkal University to take up teaching work also; and

(b) if so, with what results?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) No, Sir.

(b) Does not arise.

TRIBAL PEOPLE IN IMPHAL

137. **Shri Rishang Keishing:** Will the Minister of **States** be pleased to state:

(a) the number of the tribal villages and the population within the town areas of Imphal;

(b) the amount of money set apart from the tribal Welfare Fund for their development during 1952-53 and 1953-54; and

(c) the programme of the development works completed and now in progress?

The Deputy Minister of, Home Affairs (Shri Datar): (a) to (c). The information is being collected and will be laid on the Table of the House as soon as possible.

INDUSTRIAL FINANCE CORPORATION

138. **Shri Veeraswamy:** Will the Minister of **Finance** be pleased to state:

(a) the number of applications received from Madras State demanding loans from the Industrial Finance Corporation of India during 1953;

(b) the names of the concerns which have sent these applications; and

(c) the names of the Industrial Concerns, out of those referred to in Part (a), which were given loans and the amount given to each?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The Corporation received seven applications from industrial concerns situated in the Madras State during the period from 1st July, 1952 to 30th June 1954. (The accounting year of the Corporation is from 1st July, to 30th June).

(b) and (c). It will not be in public interest to disclose the names of the concerns who have applied but whose cases may still be under consideration or who may have not been sanctioned loans. The names of those concerns who have been sanctioned loans together with the amounts of loan are indicated below:—

Name.	*Amount.*
1. Shree Rajendra Mills Limited Salem.	Rs. 12 lakhs (the company has since informed the Corporation that they would not avail of the loan).
2. Canara Workshops Ltd., Kodiyalbail, Mangalore—3.	Rs. 3½ lakhs.
3. Mettur Chemical and Industrial Corporation Limited, Mettur Dam, Salem.	Rs. 5 lakhs (additional)
4. India Cement Ltd., Madras.	Rs. 30 lakhs (additional)

QUALIFICATIONS OF CLERICAL STAFF

139. **Shri G. L. Chaudhary:** Will the Minister of **Finance** be pleased to state:

(a) the educational qualification for the appointment of Upper Division Clerks and the Lower Division Clerks in various offices under the Accountant General, Central Revenues;

(b) whether any concessions with regard to the division or class is made to the Scheduled Castes and Scheduled Tribes candidates; and

(c) what is the total number of Scheduled Castes and Scheduled Tribes employees working in the above cadres after the Independence, year-wise?

The Deputy Minister of Finance (Shri M. C. Shah): (a) The minimum educational qualification for direct recruitment to posts of Upper Division Clerks in the Audit Offices is University degree, preference being given to men of better qualifications.

The minimum educational qualification for Lower Division Clerks in the Civil Audit Offices is a pass in the Matriculation Examination of any Indian University or an equivalent examination with a knowledge of typing.

(b) As the qualification required is mere degree or Matriculation examination the question of lowering the division or class does not arise.

(c) Figures are compiled in respect of the entire Class III service (which includes S.A.S. Accountants, Divisional Accountants, Upper and Lower Division Clerks, Stenographers, Typists and Sorters) and not separately for the Upper and Lower Division cadres. The number of scheduled castes/Tribes employees (both temporary and permanent) in respect of Class III services in the Indian Audit

Accounts Department as on 1st January, of each year from 1951 to 1954 is as follows:—

	Scheduled Castes	*Scheduled Tribes*	*Total*
1948-50	The information for this period is not readily available and if desired it will be collected and will be placed on the Table of the House.		
1951	441	66	507
1952	475	69	544
1953	569	88	657
1954	694	95	789

NATIONAL CADET CORPS

140. Sardar Iqbal Singh: Will the Minister of **Defence** be pleased to state:

(a) the number of teachers from various States who have been invited for N.C.C. training in 1953-54 and upto September, 1954;

(b) the names of the centres for this training; and

(c) the nature of the training?

The Deputy Minister of Defence (Shri Satish Chandra): (a) 60 Professors and 102 school teachers.

(b) The training was given at 23 Centres, a list of which is placed on the Table of the House. [*See* Appendix I, annexure No. 35].

(c) The Officer cadets are trained in the handling of weapons and the basic principles of military and technical subjects in order to become capable of supervising the training of cadets up to the standard required.

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[illegible]
Dated 27.11.2014

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Wednesday, 17th November, 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

11-56 A.M.

PAPERS LAID ON THE TABLE

DELIMITATION COMMISSION FINAL ORDERS NOS. 17, 18 AND 19

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to lay on the Table a copy of each of the following Orders under sub-section (2) of section 9 of the Delimitation Commission Act, 1952:

(i) Delimitation Commission, India, Final Order No. 17, dated the 22nd September, 1954. [*Placed in Library. See* No. S-414/54.]

(ii) Delimitation Commission, India, Final Order No. 18, dated the 23rd September, 1954. [*Placed in Library. See* No. S-415/54.]

(iii) Delimitation Commission, India, Final Order No. 19, dated the 4th October, 1954. [*Placed in Library. See* No. S-416/54.]

OPINIONS ON INDIAN ARMS (AMENDMENT) BILL

Shri U. C. Patnaik (Ghumsur): I beg to lay on the Table a copy of Paper No. V containing opinions on the Indian Arms (Amendment) Bill, 1954, which was circulated for the purpose of eliciting opinion thereon by the 31st August, 1954. [*Placed in Library. See* No. S-417/54.]

PETITION *RE*: CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

Secretary: Sir, under Rule 178 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I have to report that a petition as per statement laid on the Table has been received relating to the Bill to amend the Code of Criminal Procedure, 1898, which was introduced in the House on the 27th April, 1954, by Dr. Kailas Nath Katju.

STATEMENT

Petition relating to the Bill to amend the Code of Criminal Procedure, 1898, which was introduced in the House on the 27th April, 1954, by Dr. Kailas Nath Katju.

No. of signatories.	District or Town	State	No. of Petition
1	Delhi	Delhi	39

BUSINESS OF THE HOUSE

PURPORT OF GOVERNMENT BILLS PROPOSED TO BE INTRODUCED IN A SESSION

Dr. Lanka Sundaram (Visakhapatnam): May I draw your attention and also the attention of the House to the Lok Sabha Bulletin No. 1649, dated 8th November 1954, particularly Part C reading 'New Bills to be introduced'? There are about thirty Bills listed in that Part. The column 'Purport of the Bill' has been **left, in a preponderating number of** cases, completely vague. I draw

[Dr. Lanka Sundaram]

attention particularly to the Preventive Detention (Amendment) Bill, the Constitution (Fourth Amendment) Bill, etc. as samples. As you know, Sir, the accepted practice is for the House to be made aware of the purport of these Bills, and the column is clear enough on this point. I have reason to believe, if you permit me to say so, that even the Lok Sabha Secretariat is not aware of the purport of some of the Bills sought to be introduced—as I said, they are thirty in number—or for that matter, the Business Advisory Committee, which under your chairmanship has got to allot time, so that the entire legislative programme of Government is reasonably put through. I hope you will devise a procedure whereby the information which is necessary, even according to the column of the Bulletin I referred to just now, will be made available, so that towards the end of the session, there is no attempt to rush through legislation in a hasty manner.

Mr. Speaker: I would like to know from the hon. Minister whether he could give some more information.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): With regard to certain legislations, I quite agree there is scope for it, and we shall supply complete information. But with regard to some other things, I think it is not possible for Government always to supply this information, because at the last moment, we want to have some new things incorporated in the Bills. If the information is supplied now, the hon. Member can take exception on this point, saying, because this thing was not regarded as the purport of the Bill, therefore, it is a new thing, so why should this matter be taken up, etc. That is our difficulty also. (*Interruptions*).

12 NOON

Mr. Speaker: There is no scope for talk on this. I know certain points, and, if the hon. Members have to make out certain other points they may. All that is meant, I think, is that when the name of a Bill is mentioned, against that, a summary of the Bill should be given as a pointer to the subjects with which the Bill is going to deal. In case any further revision or any further amendment is necessary, that will take care of itself. I think it cannot be objected to on the ground that the summary did not disclose it here. The summary should be, as far as possible, not a very comprehensive or long one but sufficient to give an idea as to what it is that the Government is contemplating. I understand that is the only point, and, as the hon. Minister for Parliamentary Affairs said that he can do it for some, he can as well do it for others also; in view of the explanation that I have given, nobody is going to object that the Government did not say it in the summary.

Shri T. K. Chaudhuri (Berhampore): May I draw your attention in this connection to the fact that fairly extensive summaries of these Bills have been appearing in the Press and if it is possible for them to obtain these why is it not possible for the hon. Minister to give us some summary and to take this House into confidence?

Shri K. K. Basu (Diamond Harbour): May I make one more observation, exactly on this point? Before various matters are being discussed in the House, we would request you at least to give us an idea as to what actually the Government intends to get through and what it wants to include in the business. Our experience in the past is that there is hardly any chance to get through many of the matters. We would like to know exactly the lines on which the Government want to proceed.

Mr. Speaker: The procedure that we are trying to develop is this. The Government give a comprehensive list of the legislation that they propose to bring before the House. Then they arrange priorities and, ultimately, when the Business Advisory Committee sits for the allocation of time, the whole thing is discussed in the

Business Advisory Committee and, I think, due notice of it is being given. The hon. Members need not take it that all the 30 or 40 Bills are going to be taken up in this session. Nothing of that kind; but, it gives them long time to consider these Bills.

Shri K. K. Basu: The difficulty is this. In this list, there is mention that the Company Law Bill is going to be put through in this session. Unfortunately, I am a member of the Select Committee and I know that there is hardly any time for even presenting the report of the Select Committee. That is why......

Mr. Speaker: If the hon. Member presumes, he presumes well; then it is not going to be taken up.

Order, order, now let us proceed to the further business.

ALLOCATION OF TIME FOR CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

Mr. Speaker: I have to inform the House that the Business Advisory Committee met yesterday for allocation of time for the disposal of the Code of Criminal Procedure (Amendment) Bill as reported by the Joint Committee.

The Committee agreed to allocate 55 hours for the disposal of this Bill inclusive of the time taken in the House yesterday. The Committee recommended that this allocation of 55 hours may be spread over the three stages of the Bill as follows:—

1. Motion for consideration—15 hours.
2. Clause by clause consideration—35 hours.
3. Third reading—5 hours.

A Sub-committee has been appointed to allot time to various clauses of the Bill and amendments and its report will be submitted to the House later.

I shall now ask the Minister of Parliamentary Affairs to move a formal motion with regard to the approval of this report by the House.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, I beg to move that this House agrees with the allocation of time proposed by the Business Advisory Committee in regard to the Code of Criminal Procedure (Amendment) Bill, which has been announced by the Speaker today.

Mr. Speaker: The question is:

> "That this House agrees with the allocation of time proposed by the Business Advisory Committee in regard to the Code of Criminal Procedure (Amendment) Bill, which has been announced by the Speaker today."

The motion was adopted.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*contd.*

Mr. Speaker: We will now proceed with the consideration of the motion that the Bill further to amend the Code of Criminal Procedure, 1898, as reported by the Joint Committee, be taken into consideration.

There will also be the further consideration of the amendments for circulation of the Bill for eliciting opinion thereon and for re-committing the Bill to the Joint Committee moved by Messrs. Vallatharas and Gopalan.

Here, I may also invite the attention of the Members to the fact that Pandit Thakur Das Bhargava, a member of the Panel of Chairman, has certain amendments in his name; and, as he was in the Chair while the consideration motion was taken up, he could not move them. He will move them today when he is called upon to do so and hon. Members who wish to speak on the motion might, therefore, take it that those amendments are also before the House.

Shri Syamnandan Sahaya (Muzaffarpur Central): This motion which Pandit Thakur Das Bhargava was to

[Shri Syamnandan Sahaya]

move also stands in my name. As Pandit Thakur Das Bhargava is not here, may I have your permission to move it?

Mr. Speaker: Does the hon. Member want permission to move them now? Amendments Nos. 30 to 32 are there on the Order Paper.

Shri Syamnandan Sahaya: I beg to move:

> (i) "That the Bill as reported by the Joint Committee be recommitted to the Joint Committee with instructions to report in respect of amendments which the Joint Committee failed to consider as 'some of these amendments' as mentioned in para. 55 of the report 'raised important issues and opportunities for eliciting public opinion thereon had not yet been given' in spite of instructions by the House to the Joint Committee to report about all such amendments."
>
> (ii) "That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon along with the amendments which the Joint Committee failed to consider, for the reason that 'these amendments raised important issues and opportunities for eliciting opinion thereon had not yet been given'."
>
> (iii) "That the consideration of the Bill as reported by the Joint Committee be adjourned till such time as the matter of the appointment of the Law Commission is decided by the Government and if the decision is in the affirmative till such time as the final report of the Law Commission is presented to the House."

Mr. Speaker: Amendments moved:

> (i) "That the Bill as reported by the Joint Committee be recommitted to the Joint Committee with instructions to report in respect of amendments which the Joint Committee failed to consider as 'some of these amendments' as mentioned in para. 55 of the report 'raised important issues and opportunities for eliciting public opinion thereon had not yet been given' in spite of instructions by the House to the Joint Committee to report about all such amendments."
>
> (ii) "That the Bill as reported by the Joint Committee be circulated for the purpose of eliciting opinion thereon along with the amendments which the Joint Committee failed to consider, for the reason that 'these amendments raised important issues and opportunities for eliciting opinion thereon had not yet been given'."
>
> (iii) "That the consideration of the Bill as reported by the Joint Committee be adjourned till such time as the matter of the appointment of the Law Commission is decided by the Government and if the decision is in the affirmative till such time as the final report of the Law Commission is presented to the House."

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri A. K. Gopalan (Cannanore): Yesterday I moved the amendment for the recommittal of the Bill to the Joint Committee so that it may be reported back before the date fixed. While moving this motion, yesterday, the hon. Home Minister said that all the aspects of the Bill have been considered and that it is a very innocuous one and that the House should see that the Bill is passed without long speeches.

The first point about the recommittal of the Bill to the Joint Committee is this. It is not an ordinary piece of legislation. It is a very important piece of legislation on which depends the lives, liberties and the civic rights of the people as a whole. That was the reason why, in the first reading of the Bill, the House considered it and gave a direction to the Joint Committee to go into the Code as a whole and to give their opinion about other amendments that were before the Select Committee, that were put forward by members of the Select Committee.

In the Report, in para. 55 they say they have not considered them because those amendments were very important and public opinion has to be elicited and so they postponed them for some time and say that after some time the Government would be bringing forward another Bill, wherein all these amendments would be considered. There was a certain direction from this House to the Joint Committee on the 8th of May, 1954, that all the other amendments should be considered. The Joint Committee did not go into them; they said there were certain difficulties and would not go through them. In the Minutes of Dissent, other members of the Joint Committee have said that they had brought forward certain amendments which had not been considered by the Joint Committee and not been reported upon.

Pandit Thakur Das Bhargava has also an amendment which says that the Joint Committee failed to consider some of the amendments, as mentioned in para. 55 of the Report, since they raised important issues and that public opinion had not yet been ascertained, in spite of the instructions of the House to the Joint Committee, to report on such amendments. That is the reason why I say that the Bill should be recommitted to the Joint Committee. Not only was it not considered as a whole, but evidence was not taken on the Bill as a whole. Para. 4 of the Report says that they did not take evidence on the provisions of the Bill as a whole. The hon. Home Minister said yesterday that only the Federation of Working Journalists were called upon to give evidence and others were not called. At least, it was fortunate, one evidence was taken. In para. 4 it is said that they took evidence on specific points only from the Federation of Working Journalists. They say that they gave the widest possible publicity and obtained opinions from all sections of the people. I want to know what these 'all sections of the people' include. The report itself says that they consulted only some of the bar associations and some of the judges. I do not exactly remember, but it is said that they consulted or got opinions only from 40 to 45 bar associations and 40 to 50 judges including Sessions Judges and Assistant Sessions Judges. I do not know why such a procedure was adopted on such an important Bill when there was a directive that, as far as possible, public opinion must be elicited and all concerned must be consulted. I do not know why even those who have the experience as judges and all bar associations were not consulted. With all this, in the report it is said that all sections of the people were consulted. I want to know, who are all the sections of people? Does it mean only the bar associations and judges? Are the working classes included in them? Are the peasant classes included in these sections of people?

The Minister of Home Affairs and States (Dr. Katju): I may inform the hon. Member that notice was given to 36 crores of people to give their opinion on the Bill.

Shri A. K. Gopalan: Yes; notice was given to 36 crores of people by publishing in the gazette and that too in English. If that is the method of eliciting public opinion, that is why I protest against it because there are certain people who do not know what is published in the gazette. If it means that by mere publishing in the gazette people must come forward and give their opinion, I must say that no opinion will come forward on any Bill that is published in the gazette. Therefore, it is the duty of Government to see that all bar associations and judges are consulted.

Mr. Deputy-Speaker: Order, order. I do not know wherefrom it comes; there is too much of subdued noise in the House.

Shri A. K. Gopalan: Just now the Home Minister said that it had been published in the gazette and notice

[Shri A. K. Gopalan]

was given to the 36 crores of people in India.

Dr. Katju: May I just correct the hon. Member? It was not only published in the gazette, but many speeches were given and also there was public invitation.

Shri A. K. Gopalan: Sir, there are so many political parties in this country other than the ruling party. Those parties represent some sections of the people of this country. Were those political parties invited to give their opinion? There are the working classes trade unions, peasants organisations and other organisations in this country. Were their representatives invited to give their opinion? It was the duty of the Government to tell them that they were going to amend the Criminal Procedure Code. It was the duty of the Government to obtain the experience of those who are even now going to the courts and who had the experience of trials in the courts. They should be asked to tell their difficulties. They will be in a position to say what difficulties they actually experience, what changes are to be made, whether there are any clauses to be removed and whether there are any sections to be changed. That has not been done because it is taken as if by mere publishing in the gazette people will come forward and give their opinion.

The second point that I have to bring forward is that the Criminal Procedure Code relates to a system of procedure. It differs from the amendment to the Penal Code. Therefore, when we examine the Criminal Procedure Code, it is our duty to see whether all the sections in the Criminal Procedure Code relate only to the procedure or there are any other sections which have nothing to do with procedure that have found a place in the Code—I mean sections 107 to 109 and section 144. All these are preventive sections. They do not relate to procedure. We have also to examine how these sections—sections 107 to 109 and 144—that do not relate to procedure at all, are included there in the Criminal Procedure Code. It is because the authors, those who enacted the Criminal Procedure Code, wanted those preventive sections to be there. The Government of that day wanted those sections to be there because they wanted to stifle the civil liberties and also harass the people. Therefore, it was with that intention that 56 years ago, the authors of this Criminal Procedure Code included these sections. They included these sections in the guise of procedure with the purpose of harassing the people and taking away the civil liberties of the people.

Then again, we have got a Constitution. The Constitution also gives us fundamental rights. After the enactment of the Constitution it was necessary for the Government to consider whether there are any provisions in the Criminal Procedure Code which had been there for the last 56 years, enacted not by us but by a foreign Government for the very purpose which I have mentioned before of harassing the people and curtailing the freedom movement in the country. So, on the one side there is the Criminal Procedure Code, with which we have to do nothing and which we are now going to amend, and on the other side there is the new Constitution where a chapter gives us the fundamental rights. Then again, there have been many decrees in the courts given by Supreme Court judges and other judges saying that some sections of the Criminal Procedure Code contradicted with certain provisions in our Constitution. Many times this has been said. There was, therefore, a necessity for the Government, after the inauguration of our Constitution to appoint a Law Commission to find out how many sections are there in the Criminal Procedure Code which are repugnant to the Constitution; how many have to be removed and what are all the changes that are to be made in the remaining sections of the Code. When we have a new Constitution and when the Criminal Procedure Code and the law in it is not new, but it has been there for the last 56 years, enacted not by us but by those who wanted to harass the people of our country and curtail their civil liberties, certainly there is bound to be contradiction between the Constitution on the one side and the Criminal Procedure Code on the other and it should not have taken seven long years for the Government to come with this piecemeal legislation or patch-up work. So, what I say is: the Government should have, after the framing of the Constitution, gone into this question.

Mr. Deputy-Speaker: Are not all these the considerations which must have weighed with the House before it adopted the motion for reference of this Bill to the Joint Select Committee?

Shri A. K. Gopalan: The Joint Committee did not go into these points.

Mr. Deputy-Speaker: I mean the Law Commission.

Shri A. K. Gopalan: Why the Law Commission? Even now those sections are there. I wanted to say that even now, after seven years when you are considering the Criminal Procedure Code, we are not even touching those sections. We are not going into those sections on which the Joint Select Committee has not given any opinion. Whether those sections should be there, or if those sections are to be there, what are the changes that are to be made; these points should have been reported upon by the Joint Select Committee. Not a single word has been said about these sections when members of the Select Committee brought forward amendments and asked the Committee for giving its opinion. Even years ago we should have considered all these questions and we should have considered the Criminal Procedure Code as a whole. Now, when we are considering amendment to the Code, there is no reason why there should be a piecemeal legislation. There is no reason why we should pick up this and that clause for amendment. If you are doing this from the point of view of the people, certainly all the sections of the Code should be gone into. The Select Committee should have gone into it according to the direction given by the House. I only want to point out that the Joint Committee did not do the duty assigned to it.

Mr. Deputy-Speaker: Did they give any reasons for not going into these details?

Shri A. K. Gopalan: They have given the reasons in paragraph 55 of the report. The para. says:

> "The Joint Committee desire to state in this connection that many amendments and suggestions relating to certain sections of the Principal Act not covered by the amending Bill were submitted to the Committee. As some of these raised important issues, and opportunities for eliciting public opinion thereon had not yet been given, the committee are of the view that these should be taken up for consideration after circulating them for public opinion. They therefore recommend that all such amendments may be referred to the Government, who will obtain the opinion of the public thereon and if necessary bring before the House another suitable amending Bill to the Code of Criminal Procedure, 1898 as far as possible within one year."

The reason they say is that they are very important and so public opinion must be elicited. Then they say that there was no time. If the reason is that there was no time and the amendments that have been brought forward are very important which should be gone through, then there are other amendments here for eliciting public opinion. There is also an amendment to adjourn the consideration of this Bill till the appointment of a Law Commission. There are three amendments by the hon. Member Pandit Thakur Das Bhargava, where he says that everyone of them can get the opinion of the people because some important things are there which, as the Select Committee says, has not been done.

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The next point that I have to present is about the sections that are omitted. What are those sections? What are the sections that are not considered and why it that those sections are not considered? These are very important sections on which there have been no opinions given. These sections are sections 107 to 109. What is the origin of these sections—Section 109, especially? The historical origin of this section 109 is that originally, in Britain, in the reign of the Tudors, there were large masses of the peasantry who were dispossessed of the land. They had no lands. They were wandering about without any work, and there were manufactories by the capitalists, and they wanted some people to work in the manufactories. So, the police questioned those people and asked them whether they had any work. Then they were arrested and the police said that they had no ostensible means of livelihood and they were proceeded against. Then the capitalists said that they would give them security and take them into the factories and make them work there. That was the historical origin of section 109. That is why section 109D says that those who have no ostensible means of livelihood can be proceeded against and arrested. Section 109 which empowers the police to arrest a man in the name of there being no ostensible means of livelihood for him, should, in my opinion, never find a place when the Parliament considers the Bill and after considering the Bill, if this section which had an origin which we know was not due to the people of this country,—not only the origin was there, but even after the origin, several of us were proceeded against—is retained, it will be wrong. Several of us, when the Britishers were there, had been proceeded against under section 109. In the year 1937, I had been proceeded against under section 109, having no ostensible means of livelihood and I was bound over when I was a member of the All-India Congress Committee. I do not know whether the hon. Home Minister was in the Congress then and whether he was prosecuted under section 109. So, several others also who were working in the Congress were proceeded with under section 109. Why was section 109 used? The section was kept there by the Britishers because they wanted that the association and organisation for the political purpose should not be formed and that they should be curtailed. It was for that purpose that section 109 had been used. How is the section used now? It is used in the same way. So, an examination of this section—how it came into being, how it was used before, how the police is proceeding with this section, how people are arrested and what are the charges against them—all these have to be examined very well, because there are several instances which had been brought before us and several instances which they have not understood.

As far as the peasants of Satara are concerned, the authorities may say that under section 107, they are to be dispossessed. Their lands had been taken away by the sugar factories. They wanted the land back. There was the agitation, and they were proceeded with; they were taken 30 miles away and proceedings were taken against them. They had to walk 30 miles, go to the court and defend themselves. So, what is the origin of sections 107 to 109 and how was it applied by the Britishers and how is it applied now? These are to be examined. There are very many instances, and I will give you one instance to show how this section is used now. When something is done in the interests of the country, to see that those things are not done, these sections are used. There are fertile lands in this country. In the Kurumbarnad taluk of the Malabar District, there is what is called the Kuthadi estate, where 20,000 acres of land belong to a certain man. He happened to be the only one member in the family. He died. Because he had no other successor, the land was taken by the Government. There were 20,000 acres of land. An agitation for the last one year is going on there to the effect that the land should be given to the peasants. They submitted petitions, and they said that the lands must be given back to them, because they are very fertile lands. Now, under section 109, the proceedings had been taken against 15 or 20 people. What they said was that the lands must be given for cultivation, that there must be legislation empowering either the private landholders or others not to allow the land fallow and to give it for cultivation for rent, at whatever rate that is levied for such other lands given for cultivation. Section 109 is used against the people and they are proceeded with. It shows that the peasants will never ask for the land. When the peasants go and ask, this section is used. It is the duty of the Government to examine and see to these things: when people come and say that such and such a section has been used against them, I spoke to them saying that the land must be given to them. Letters were sent to the authorities concerned for the cultivation of the fallow land. This is only one of several instances.

There are several instances where section 144 was used. I will give one instance from my own experience. In the year 1952, when I went to Travancore-Cochin, at the time of the first general election, I was given an order under section 144 saying that I should not address any public meeting. Not only that. I was given an order under section 144 that there must not be a press conference, that I should not address the Press inside a house, and speak to five or ten people. I was prohibited from addressing a press conference. When I was at Alleppey, a P.T.I. correspondent came and talked to me. The Sub-Inspector of Police was there and said that under section 144, I was prohibited individually to talk to a press correspondent. So, the correspondent said, "I am not able to talk." So, whether it is a press conference,—talking to ten people or more,—or whether it is one pressman, it was prohibited by section 144. So, how is the section 144 used. How can a press conference create a breach of the peace? How can a man talking to a pressman create a breach of the peace in the country. I can understand if the Government says—though there is no logic in it—that by addressing a public meeting, there will be a breach of the peace, but if you address anybody in a house or in a room,—a gathering of 10 or 15 persons—pressmen—I do not know how there will be a breach of the peace. The man has to go to the court and say to the court that it is not a breach of the peace and thus defend himself, and the magistrate or the judge has to give a ruling saying that it was or was not a breach of the peace.

There was a case known as the Thana case in Bombay. 65 people were arrested because they were taking out a procession. Article 19 of the Constitution relating to fundamental rights says that citizens have the right to assemble peaceably and without arms and to form associations and organise. But 65 people were arrested and they were prosecuted. The constitutional validity was challenged. The judge asked the Government, instead of going into the question whether the arrest under that section was constitutional or not, why they may not be let out. That was against the fundamental rights given by the Constitution. This is not the only thing. There are so many things. If a poor man is obstructed, or if some parties are obstructed, from doing things that are allowed by the Constitution, they are prohibited from doing those things by application of this section, and they have to stop doing those things today. The only remedy they have now is that they have to go to court and prove to the court that the orders under which they are proceeded with under the Criminal Procedure Code are void. They have to show that. That is why there are several sections and objections on which even the legitimate, peaceful agitation of either the peasants or the workers are not

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allowed when this section 144 is issued. Not only this. Suppose there is a meeting. I can give many such instances. When a meeting is organised in one place,........

Mr. Deputy-Speaker: I have heard the hon. Member sufficiently well. The main point before us for consideration is that there is an amending Bill touching certain sections. No doubt the Bill was sent to the Select Committee with instructions that they may go through all sections of the Code if they considered it feasible. But in this case, there are a number of questions like section 107, 144 etc., which, according to many hon. Members, are out of date and which are yet being used oppressively and therefore ought not to be enjoined on the Statute Book. Those matters seem to have been raised in the Select Committee. But the Select Committee ultimately resolved that these matters are fit for a separate amending Bill, and therefore, consideration of them were deferred. Therefore, reference to sections 109 and 144—as to how they are out of date, how they are used, and so on—I consider, is rather unnecessary here. Nobody disputes the fact that sections 109 and 144 raise very serious objections, and there are objections to their continuing in the Statute Book. The only point now, is whether they ought to be included now, and whether a reference back to the Select Committee is called for, so that those matters may be investigated. In view of the urgency with which this measure has been placed before the House, reference to these matters may be deferred to a future occasion. That is the only simple point. Therefore, reference to the many instances to which the different sections of the Criminal Procedure Code has been put, and which, therefore, call for modification, is not necessary, except perhaps one or two by way of illustration. The rest are not the subject matter of discussion now. The simple point is whether we should go into all those matters by sending this Bill back to the Joint Committee, or reserve them for future consideration.

Shri K. K. Basu (Diamond Harbour): If we doubt the urgency of this measure which has been enunciated by the Mover, certainly we are entitled to say that in the background of the abuse of the different sections of this measure, the whole matter should be considered *de novo*, because the Joint Committee did not fulfil the purpose.

Mr. Deputy-Speaker: That was why I allowed reference to sections 109 and 144. Instances can easily be multiplied. But reference to every section of the Criminal Procedure Code which calls for repeal or modification will not be within the scope of this amendment. The amendment is for sending the Bill back for reconsideration by the Joint Committee. The sections which have not been touched cannot form the subject matter of discussion now.

Shri K. K. Basu: If we can show that there are other clauses of the Criminal Procedure Code which are much more important, co-operatively speaking, than those which are sought to be amended now, then to expatiate our point, we naturally have to refer to those other sections.

Shri A. K. Gopalan: If you would not allow me to cite any more instances, I will not do so. I am speaking here not as a lawyer, but as a person against whom sections 109 and 144 of this measure have been used. I had to go to the courts not once, not twice, but several times. If I had not given instances, would you have known that section 144 was used to prevent my addressing a press conference? Did you ever know that section 144 was used to prevent a person talking to a pressman? So, the instances that I have given are not ordinary instances, but instances which even you might not have heard! The instances which I have given are certainly instances which many of the hon. Members of this

House might not have heard. So, I say that this measure must be recommitted to the Joint Committee.

Why did the Joint Committee which has reported not consider about sections 107, 109 and 144? Because they might not have heard of instances where there was such a gross abuse of those sections. I know of so many instances, not only my own personal instances, but also of others, of gross misuse and abuse of the provisions of the Criminal Procedure Code. Even if you are not going to repeal those sections, it is the duty of the Joint Committee to take evidence and find out how far these sections have been misused and what safeguards could be provided to see that such misuse is not made. If you would not allow me to cite any more instances, I will not, but I shall content myself by giving one more illustration.

For instance, a factory is closed in violation of an Act of Parliament. The Industrial Disputes Amendment Act lays down that the employees of a factory should be provided with certain amenities. Suppose one fine morning a capitalist declares a lock-out. The only way in which the workers can bring this to the notice of the public and the Government is by a sort of peaceful agitation. Even such legitimate and peaceful agitation to bring to the notice of the public that here is a capitalist who has gone against a very Act passed by Parliament and has declared a lock-out is brought within the clutches of sections 109 and 144 of the Code of Criminal Procedure.

In such instances the measure is used not in the interest of the country; it is used against the interests of the country and the people. Everyone says there must be more production; the workers are ready to work; the peasants are ready to cultivate the land. The peasants say: "Give us the land". It is not against the interest of the country; it is not meant against anybody. Of course, it may be against the interest of that man who has to give the land. To use the provisions of this measure against those persons is definitely against the interests of the country. These provisions of the Criminal Procedure Code have been put there for a very specific purpose. Certain sections which have been there in the guise of procedure should not have found a place at all in the Code. It has been put there in the guise of procedure, because the Government of that day wanted to harass the people and wanted to stifle the civil liberties of the people. Most hon. Members of this House, who have been political workers, to whichever party they may belong, are very familiar with the use of these sections. It was therefore up to the Joint Committee to have suitably dealt with them. It is therefore natural that this matter should agitate the minds of large sections of people in our country.

Why has this Bill been brought forward? What is the main purpose of it? The words "speedy trial, speedy trial" have very often been repeated. Every five minutes in the course of his speech the Home Minister was saying that we want speedy trial, speedy trial. But does it help speedy trial? Why is it there is no speedy trial today? There are several reasons for it. The first reason, as several Members of the Committee have said, is that there are not enough number of magistrates. The second reason is that the magistrates have to perform both the executive and the judicial functions. Whenever the Central Ministers, or the State Ministers, or Commissions, visit places, the magistrate has to be present. So the first necessity for speedy trial is that there must be—this has been done in some States—early separation of the judiciary from the executive.

The second reason for speedy dispensation of justice is the delay that ensues in the investigation of cases. It has been said that there is lack of experienced investigating personnel. I wish to give the House some instances of delay that take place in investigations. In a case in the State of

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Travancore-Cochin before the investigations were over five of the twenty-five accused died inside the jail. It took three and a half years for the case to be over. After all this, several of the accused were acquitted. There was another case known as Edapalli case which also took three years. Of the accused one died under suspicious circumstances and fifty people were acquitted. These fifty people were in jail for more than three to three and a half years, because there was so much delay in investigation, delay in taking evidence, and lastly delay on the part of the magistrate. All these could be avoided by fixing a time-limit. If a man is arrested within such and such time charges must be framed, within a specific time evidence must be taken, and the whole case must be over within a specified period. Such a provision will obviate the delays. Because these things are not there, many people are rotting in jails for months together. Most of them are acquitted after six months or one year.

The next point I want to see is whether these amendments are against the three main principles of jurisprudence. The first principle of jurisprudence is that the accused shall be presumed to be innocent till he is proved guilty. The basic approach of the Home Minister is when a man is arrested, he is guilty and not innocent.... (*Interruptions*)

Dr. Katju: I really must protest against this; I have never said this. I have denounced it.

Shri A. K. Gopalan: The Home Minister's intention is such; the words may not be there. Everybody here, I say most of us here, think that when he says these things, he means this. He has been talking that so many people were acquitted as if it was a great sin. He said: 50,000 people are acquitted; as if something very bad happened in the country. That means that when the police arrests a man, the Home Minister thinks that he is guilty. Much has been said about the police. They are a fine people and they arrest a man only when they find a man guilty! In the yesterday's speech it was said so many people were arrested in the Punjab but were acquitted. Why should anybody be acquitted? I do not know the necessity for this Bill? Any man who is brought by the police should be treated as guilty and there must be a speedy trial. (*Interruptions*) That is what he says. It goes against the principle of jurisprudence. The man who is accused is not guilty until the court finds that he is guilty ....

Mr. Deputy-Speaker: The hon. Member seems to agree; there should be speedy disposal and speedy trial in 50 per cent of the cases; about the other half it should be acquitted?

Shri A. K. Gopalan: Where there is separation of judiciary from the executive, there will be speedy trial. I am not against it. I say there must be speedy trial and the innocent man should be let off. When a man is arrested, the Home Minister thinks he should never be acquitted and the reason for speedy trial is that 50,000 people are acquitted. So, he says, there must be speedy trial. It should not be because so many people are acquitted; it should be there because there are so many thousands of people will have to be acquitted; these innocent people should not be kept there. That is the reason.

The second thing is that the accused is not bound to say anything and the prosecution is bound to prove. I shall quote what the Home Minister said yesterday when the question of defamation came, referring to the substitution of new section 198B. "We know that for a variety of reasons, public servants who are defamed—including even the Ministers—do not like to go to a court of law and institute a private complaint......" That is the very reason why I say that these Ministers must go to the court. Why should not Ministers go to a court of law and institute a private complaint? It is certainly the duty of the Minister or the public servant when he is defamed to go to the court and tell the people. Going to the court means telling the people personally: 'I am here; certain charges are there and I am defamed. Certain things are said against me or written against me. I am here and I can be cross-examined and I am ready to give evidence and answer any charge that come against me......" It is the duty of the Minister. Then the public will have confidence. They will say: the Minister has come. Suppose a public servant or a Minister who is defamed goes to the court. Even by looking at the face of the accused, people can know whether the charges against him are correct or not. It is not the words; it is the appearance of a man in the court: how when certain questions are put, his guilty conscience pricks and how his face changes. It is that the people want to see. It is not a question of arguing. The question is whether he is really guilty and that can be seen only by the appearance of a man and how he reacts during the course of cross-examination. Cross-examination is there purposely so that the guilt of the man could be found out. That is why we say that there must be confidence in the public. If there is defamation, it must be taken as a private thing. It is the duty of either the Minister or the public servant to come into the court and say 'here, I am and challenge the man who has said this; I am innocent and I am not guilty.' Thus he can show to the people also that he is not guilty and that he is innocent.

The third point is this. Why should there be a difference in the defamation between an ordinary man and an officer or a Minister. When the proceedings are taken by the public against newspapers for defamation, they are going to court. When they write something about certain persons, they go to the court and they answer there. But here, the Minister or the man who is involved sits in the house and he is not to appear in the court or before the people. He is only to communicate to the public prosecutor and he will take the case. Why should there be a difference at all; it is a defamation which concerns the individual and not the Government. It concerns certain Minister, we do not say about the Government. If it is Government, it is another question. We say that such and such individual or Minister has done something which is against this principle. It is the responsibility of that individual to come forward and say that he has not done that. There should be no separate treatment for Government servants and the Ministers from the ordinary member of the public.

Yesterday it was asked: how is it that there will be terror in the minds of the press; how can there be terror in the minds of the people; how is it that they will not come forward? Certainly they will not come forward. According to the Criminal Procedure Code before it is amended, the thing is that a man—whether the Minister or anybody—will come out and then file a case against the persons concerned if he thinks that what is said or written is certainly wrong and that he has nothing to do with it. If there is some guilt in his mind or something wrong not only on the particular instance but even if there has been some past action—then he would not come forward. Suppose I am speaking about corruption. The thing that I have said may not be correct; but there may be other instances in which the conscience of the man will say that it is bad when he comes to the court because he has in some way or the other done something and he will not file a suit himself because of these things.

This amendment is now made by which the Minister or a public servant, even if something is said about him, need not come up to the court; he will not be cross-examined but the man who says these things can be proceeded against and he can be punished. According to the old section, certainly there was something helpful to the man who said or wrote

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and only those who were defamed and who think that there is nothing in their heart can and will come up. But now it is a different thing. A Secretary can write to the public prosecutor and the public prosecutor can say that on the basis of some report in the paper, a case should be launched. This section 198B curtails the liberty of the press and it should not be there.

As far as some of the other sections are concerned, I have first to suggest that an opportunity must be given to the accused not to remain in jail for many months or years. As far as bail is concerned, the time of 60 days is there and if the prosecution evidence is not finished then the bail will be given to him. But when will the prosecution evidence be taken? It may be after months together; till that time no bail will be given to him. Now bail is given. According to this change, bail will be given 60 days after the evidence is taken. Within the time, if the evidence is not concluded then only bail will be given. Experience now is that in so many cases, they are there till the evidence is taken and these persons are kept in jail for months together without knowing whether they are guilty or not. This is punishing a man who is not really guilty but who is innocent.

What are the main features of this Bill? As I understand them, in the first place more facility is given to the prosecution and less and less facility is given to the accused, and in some cases no facility is given to the accused.

Secondly, take the amendments of sections 204 and 207. In Criminal procedure there are three kinds of trial, summary trial, summons trial and the warrant procedure. As far as all these three kinds of trial are concerned, the summary trial is there; it is now extended and the fines are increased.

And summons trial is also extended. There is a difference between summons trial and warrant trial. In summons trial the accused is just asked to go before the court and the charges are laid before him; and he has to answer the charges in the cross-examination. That means the accused has no opportunity to understand the charges and be ready for his defence. That is the summons trial. Now it is extended from offences punishable with six months to offences punishable with one year also.

Not only that. At present sections 108 to 110 are taken as warrant procedure. Now they are removed from the warrant procedure, and summons procedure is extended to them.

There are also other sections into which I do not wish to go. But as far as the amendments that are brought forward here are concerned, from the point of view of the people these amendments not only do not give us a speedy trial, but those little privileges that had been there for the accused are taken away. This amendment does not help the accused at all. It does not give him a speedy trial because there is no time-limit. Also, the warrant procedure and summons procedure are extended; and other facilities which were there for the accused have been taken away.

I want only to say that this is only a step towards a police state; because sections 107, 108, 144, all these sections are not touched. The Joint Committee does not want to discuss about those things and give its opinion about them. These sections are the most oppressive, but they are all kept intact. And even the small privileges or facilities that were there are taken away.

I am of opinion that this Bill must be either re-committed to the Joint Committee, or I would even agree to the amendment given by Pandit Thakur Das Bhargava that it may be circulated for eliciting public opinion, or it may be adjourned till the Law Commission is appointed and the Law Commission goes into all the questions relating to the Criminal Procedure and which sections are to be removed immediately and which changes are to be made. This is my feeling.

Shri S. S. More (Sholapur): Before I proceed to make my comments on the provisions of the Bill as they emerge from the Joint Select Committee I should bring to your notice one very significant, and to me a painful, fact. I had appended to the Report of the Joint Committee my Minute of Dissent which is possibly the longest amongst the Minutes of Dissent to this Bill. But I want to make a grievance here and I feel personally that the Chairman who has deleted some portion from my Minute of Dissent has treaded upon the privilege of the Members of the Select Committee to append Minutes of Dissent according to their own likes. Of course that is an entirely separate matter and I will take up that matter as a matter of privilege independently.

As far as the Criminal Procedure Code is concerned we must realise, and all practitioners on the criminal side will no doubt realise and accept, that this amendment of the Procedure Code is a matter of the gravest significance to our country. The Britisher took a particular view of the Criminal Procedure Code. When we go into the history of criminal legislation in this country we find that it dates from 1793. The East India Company was obsessed with the fact that the people were resisting their rule, that the law and order problem was becoming more and more serious. Therefore they viewed this matter from the law and order point of view. They wanted the magistrates to keep the peace. They wanted the magistrates and the preventive provisions of the measure to be utilised for the suppression of the people's revolt against an undesirable rule. So the Criminal Procedure Code in this country, as it came to be framed, was from a different angle, from a different point of view, than the Procedure Code which had been evolved in England itself. The Procedure Code in England had a democratic foundation. It was designed to see that justice was done and was primarily based on the eminent maxim that every man is to be presumed to be innocent. But this presumption of innocence, though it was accepted by the British administrators here, was only accepted with a lip sympathy, and whenever people resisted their autocratic rule the presumption was thrown overboard.

Take for instance provisions under the Indian Penal Code like section 124, sedition and other sections. These provisions were widely used to repress national movement. Every political agitator, every patriot who was fighting for the liberation of the country, when prosecuted under this section, had to prove his innocence, and it was extremely difficult. So Mahatma Gandhi and others said that the sword of sedition hangs over the head of every democrat in this country. But when we have achieved independence is it not necessary that we should approach this problem from a different, humane point of view? A foreign power trying to suppress the people has now ceased to exist here, and people who are of the soil have come into the seats of power. And therefore, naturally, it is not unreasonable on our part if we expect that they would approach the problem in a more democratic way and with a sincere desire to do justice to the people. But, unfortunately, I find that the present Government's attitude, and particularly Dr. Katju's attitude, is quite the opposite of what we reasonably expect it to be. What are his slogans? Speedy trial, inexpensive trial. I quite appreciate the principle that there should be speedy trial, that the trial should be inexpensive, and that the procedure should not be cumbersome as it is at present. But how is the speed to be achieved? Is the speed to be achieved at the cost of the accused? The previous speaker did refer to this aspect. We concede that there are some drawbacks but what are the causes?

If I can quote, with some force, the opinions which have been given by the Judges who belong to the highest

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tribunal in the country—they are grouped together and supplied to all the Members—Justice Mahajan who happens to be the Chief Justice of the Supreme Court has stated that it is not so much the procedure which is at fault but it is the machinery, which has been devised by the British to work out this procedure, which is really at fault.

A sort of contradiction has developed. We are trying to have a new procedure, a new outlook for administering criminal justice. But the machinery that we are having is a machinery that was devised by the Britisher, and for what purpose? For repression, for suppression of the national ambitions of the people. So a machinery which was developed for the purpose of autocratic rule is being utilised by this Government for the purpose of implementing democratic conceptions of administration of justice. This is not the way in which all these high-sounding principles can be implemented. Speedy trial—who are responsible for delay? I do not want to take up the time of the House by quoting extensively, but I can make pointed references to, without going into the chapter and verse, what Dr. Katju himself has admitted.

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Now, as far as the prosecution is concerned, who starts the ball rolling? The complainant goes to the police. The police are seized of the matter. They start investigation. The complainant takes the earliest steps to go to the police, but it is the police who are responsible for the procrastination, delay in investigation. What quality of investigation is made available to us? The police are corrupt and they are untrained in the finer arts of detection of crime, with the result that the means that they employ are means which shall be more befitting the ......

Mr. Deputy-Speaker: Is it not desirable that the hon. Member, instead of saying all the police are corrupt, should speak with some exceptions? General aspersion against a whole administration will not be proper.

Shri S. S. More: I am talking about a system. We are in changed times. I can give quotations and extracts from the Congress resolutions wherein they came out with unqualified condemnation of the Police. Similarly, I am attacking the system. I am not attacking any X, Y or Z who belongs to that system.

Mr. Deputy-Speaker: Does the hon. Member mean that there are States where there is no police at all?

Shri S. S. More: I have not followed your question.

Mr. Deputy-Speaker: Unless the hon. Member means that any State can get on without police, what is the meaning of a general remark that the whole police is corrupt?

Shri S. S. More: I am sorry you have not properly understood me. I do not say that there should not be any police, but I say that the police should be the real guardians of the people.

Mr. Deputy-Speaker: That is all right. There are many policemen....

Shri S. S. More: That might be your view, but I must express my own view.

Mr. Deputy-Speaker: Order, order. There is no meaning in making aspersions against a whole system here, saying that the police are corrupt, the civil administration is corrupt, the whole thing is corrupt. There may be a lot of people, the majority of them may be corrupt. I have absolutely no objection to such a statement, but should we use this forum to say that the entire police administration is corrupt?

An Hon. Member: It cannot be.

Shri S. S. More: With your permission, I would say that when I make this allegation, when I make these statements, they might look to be very sweeping, but I am relying on the resolutions which have been passed by the Congress.

Mr. Deputy-Speaker: In these years?

Shri S. S. More: Yes. The whole system of police which are now under the benign rule of the Congress are the remnants of the British bureaucracy, trained by the British bureaucracy, brought up by the British bureaucracy, and therefore the significance of the resolutions passed by the Congress when they were struggling for national liberation has not become extinct by the fact that the Congress has come into power.

In my Minute of Dissent I have quoted the late Mr. Gokhale. Now, the late Mr. Gokhale could not be charged even by his worst enemy as being an extremist in his opinions, but even he very categorically, very emphatically stated that the police were not of the type that we should have and it would be extremely dangerous to entrust that sort of police with more powers, because it is not the law which really matters, but the machinery, the instrument which puts this law into operation that matters.

Shri V. G. Deshpande (Guna): That was the police under the British. (*interruptions*).

Shri S. S. More: Dr. Katju has circulated a memorandum, in which he himself has stated that the people are in fear of the police, that the police terror is there, that the police investigations are not of the desirable type or speed or quality. If I can quote Dr. Katju, you will excuse me if I go a step further in expanding what he has stated in a *sutra* form. I am only commenting on and expanding what he has stated. His statements carry the seeds of some good observations and correct appraisal, which have become very rare with him nowadays, and I am trying to water those seeds so that they may sprout into trees of a further argument.

Now, the police are not prompt in their investigation. What about the magistrates? The magistrates, it is my experience and the experience of you too I believe, never attend the courts regularly, at proper time. The usual time is that they should attend the court at eleven. Then, some of the magistrates may go to court at eleven, but they never come out in the open chamber. They sit in their secret, I will not say secret, but private chamber and go on writing letters, I do not know addressed to whom. Particularly regarding the young section of the magistracy, I cannot probe into details or into the contents of the letters in which delicate emotions are clothed in their Private chambers. Then they come out at about two.

Mr. Deputy-Speaker: Is it the hon. Member's argument that old people must be recruited as magistrates?

Shri S. S. More: Since I have passed my fiftieth year, I have become very sympathetic to the old category.

So, my submission is that the magistrates never attend courts regularly with the result that there is delay in disposal. Make them attend courts from eleven to five as the Judges of the Supreme Court have been very particular to do, or as the Judges of the High Courts are very particular to do. The magistracy never attends the courts during regular hours, regularly like a clock.

Mr. Deputy-Speaker: Possibly that is because in many cases they combine in themselves both the executive and the judiciary.

Shri S. S. More: I am talking about the Bombay presidency. There, the judiciary is separated for the last two or three years, but even there this practice of irregular attendance still persists.

The question that you have asked leads me to the question of the separation of the powers. If you want really speedy trial and good justice to be administered, independent justice, without any strings from the executive, then separation of the judiciary from the executive is the first item of our reform of criminal laws. And demand for the separation of the judiciary from the executive has been one of the main planks of

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the Congress propaganda and Congress declarations for more than 50 years, half a century or so I believe.

Shri Bibhuti Mishra (Saran *cum* Champaran): But Congress has been doing.

Shri S. S. More: "Congress is doing, Congress will do" is an assurance frequently voiced. But that sort of declaration even the Britisher used to make: "We are doing, we intend to do, we shall do." But such a wordy assurance is not the thing that will satisfy us. Why not do it immediately?

Take for instance section 17 of the Criminal Procedure Code which says that Magistrates are subordinate to the District Magistrate. If you change that section, amend that section so as to make the magistrates subordinate to the High Courts, a world of difference will come into existence and we shall have a better quality of justice as far as our criminal courts are concerned.

So, I was talking about speedy trials. The police are responsible, the magistrates are responsible; the prosecutors who are supposed to conduct cases, having got other engagements, are not particular to attend to their cases, and last of all the prosecution witnesses.

As far as Bombay State is concerned, prohibition is there. Now, most of the criminal cases that are started by the police are under the prohibition Act. The witnesses coming for prohibition cases are corrupted to a very large extent by the illegal distillers with the result that they either remain absent on the first day of the hearing or when they cannot avoid remaining present in the court, they come irregularly, and then the court has to adjourn the case because the prosecution witnesses are not present. I will be very frank. I would say that some of the lawyers appearing for the defence do, to some extent, participate in this process of delaying justice.

But with all that, by a reform of the police, reform of the magistracy and tightening other screws, you can have speedy trials, you can have inexpensive trials, because if witnesses are examined at the very first stage, the moment they appear, the expense will naturally come down. This is what I wanted to say.

I would like to refer to another aspect of the matter. As I have been saying, it is highly necessary that this criminal law of the country should be completely overhauled. Let us have a complete picture of the criminal administration of this country. As far as the criminal administration is concerned, the Indian Penal Code, the Criminal Procedure Code, some parts of the Indian Evidence Act, and other Acts which have been creating offences of different sorts are interlocked and will have to be scrutinised together. Now, what is the machinery by which we can do it? And what is being done now? A Bill seeking to amend a part of the Criminal Procedure Code is placed on the anvil of the House and we are expected to consider this Bill irrespective of the effects which it will have on, or the effects which it will be subjected to from the Indian Penal Code or the Indian Evidence Act. Why not send all these measures to a Law Commission?

I will tell you that in reply to the circulars or the memorandum circulated by the Government, different Courts and authorities have said that an Indian Law Commission should be appointed. This demand is perfectly reasonable. You are aware that when the Britishers contemplated to place the criminal law on a sound and durable footing, a Law Commission was appointed in 1830; and later a Law Commission was appointed in between 1850 and 1860, by the Secretary of State, for the purpose of giving a complete and integrated scheme for reforming the law. Why should we not appoint an Indian Law Commission, so that they can make a very comprehensive survey, covering all aspects including even the smallest facet of our criminal administration, and give us a well-proportioned and well-developed picture of the whole administration? That is a question which Government will have to answer.

This demand for the appointment of All India Law Commission is widely supported by the U.P. Committee, *viz.*, the Wanchoo Committee. In their report they have stated that such an Indian Law Commission should be appointed. The West Bengal Government have also supported it. The Assam Government have also supported it. The Bihar Government have also supported it. The Patna High Court Judges have stated that it is essential, and some of the judges have stated that it is imperative. Then, the Government of Bombay, and the Judges of the Bombay High Court too have stated that the appointment of such a Commission is highly desirable and unavoidable, and only such a Commission can do full justice to the matter. The Government of Mysore also have supported such a move. The only two Governments that have gone, or voiced their opinions, against this measure, are the Government of Madras, and the Government of Madhya Bharat. But I would say that the preponderating section of opinion is in favour of the appointment of such a Commission. As one of the lawyers of some standing, I should say that it is highly desirable that the whole criminal law must be subjected to very critical and democratic survey by our eminent Jurists and other responsible persons who will find a place on the Law Commission. Unless such a thing is done, we would not have a clear picture of our criminal administration, with the result that chaos and confusion will prevail everywhere, and we do not know what will happen tomorrow. There is a climate of uncertainty everywhere. Even eminent practitioners say that so many laws emerge from Government and from the different Legislatures in the country, creating a bewildering variety of new offences. Some are criminal offences, some are social breaches, and so on—an ever growing flow of disjointed legislation.

There is one more aspect that I want to present for the consideration of this House. Is the classification of offences correct? Take, for instance, offences against property, offences against the state, offences against municipality, and offences against social customs. My submission is that this categorising introduced by the Britishers is not a scientific categorising. If you go to England, you will find there, felony, misdemeanours, social breaches and all sorts of other offences, are classified on a different principle of the more or less gravity of the offence. So also in Western countries, and in America too, this sort of categorisation prevails. There is no such thing as a summons case or a warrant case. We do not get any idea about what a summons case is. Whether the gravity of the offence is the first point on which emphasis will be laid in classifying the offences is the point. And even that requires a close and very detailed study by a Law Commission.

I have already stated that one of the most urgently needed reforms is the separation of the judiciary from the executive. I do not know why even this Government, which belonged to a party which has been all along preaching the separation of the judiciary from the executive, should be so reluctant and so lukewarm in their anxiety to have that sort of separation.

Then, I come to the provisions of this present Bill. I would say that instead of amending the Criminal Procedure Code, let us have a clean slate and say, this shall be a complete Criminal Procedure Code, the Criminal Procedure Code of 1954. Why should we amend the Criminal Procedure Code of 1898 by this amending Bill. Can we not say that we shall have a *de novo* Bill and a *de novo* Act,......

Mr. Deputy-Speaker: These are all very interesting. But the hon. Member will kindly see—he has experience of parliamentary practice—that this is a stage where the Bill has come back from the Joint Select Committee after

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having been referred to it; and the hon. Member should remember the scope of the discussion at the present stage. Having a Law Commission before any Act is amended, or that there should not be an amending Bill, but a consolidated Bill—these are all very relevant matters, no doubt, and they will be very good at the early stage. Now, all that we are concerned with is only this—and it has been repeatedly held from the Chair—namely, objections to the manner in which the matter was reviewed or looked into by the Joint Select Committee, or even the other amendment to the effect that this Bill must be recommitted to the Joint Select Committee, the reasons for doing so, observations to the effect that certain amendments were not carried there, which ought to have been carried etc. These are all relevant matters at this stage. But going back to the principle of the Bill, and saying there must be a Law Commission, or there must have been a Law Commission, or there should be a separation of the judiciary from the executive—these are all things which must have been agitated earlier. This is not the stage where we ought to go into these matters.

Shri S. S. More: I accept what you say, but I will only bring to your notice very humbly that when this Bill was committed to the Select Committee, all the doors for amending any and every section of the Criminal Procedure Code were thrown wide open for the use of the Select Committee. And I am urging these points with that point of view in my mind. There is already a motion that the Bill be recommitted to the Select Committee, and I shall be perfectly competent, I believe, if I say that these are the reasons why the Bill should be recommitted.

Mr. Deputy-Speaker: But how does the Law Commission come in?

Shri A. M. Thomas (Ernakulam): May I draw your attention to amendment No. 32, which has been allowed to be moved by the Chair, and which reads:—

> "That the consideration of the Bill as reported by the Joint Committee be adjourned till such time as the matter of the appointment of the Law Commission is decided by the Government and if the decision is in the affirmative till such time as the final report of the Law Commission is presented to the House."?

Mr. Deputy-Speaker: True, but it is not decided as to whether it is in order or not. I may consider it to be dilatory.

Shri S. S. More. Since it is accepted, and it is not ruled cut, I will be perfectly entitled, and within my competence if I make certain observations which are supporting that sort of thing.

Mr. Deputy-Speaker: He has already done so.

Shri S. S. More: My submission is that we must take the whole Procedure Code, and try to recast it from the very first section to the last section. Let us call this Procedure Code, the Procedure Code of 1954. In order to urge and impress the necessity of what I am suggesting, I shall bring to your notice some of the Acts passed by the Britishers from time to time.

As I have stated, the first consolidated Criminal Procedure Code emerged from the Britishers, from the Imperial Council, in 1861. In 1872, a separate and complete Procedure Code of 1872 was passed. Thus, within a period of ten years, the first Code was discarded and a new Code came on the statute-book. Again, within a period of ten years, in 1882, another Code came on the statute-book, an entire Code from the first section to the last section.

Then, from 1882 there is a jump—for about 16 years. In 1898, the Procedure Code, which we are now seeking to amend came on the statute-book. But, even that Procedure Code has been substantially and repeatedly amended up till now. Many sections have been deleted and new sections have been added. There are about 44 sections here, leaving gaps as sections repealed. Then there are about 45 new sections added, which are naturally numbered as A, B, C and D, because the original number is there. There are thus 44 gaps showing sections repealed and 45 new sections. Is it not necessary that they should be properly levelled up or levelled down? It looks like the mouth of an old man from where some teeth have gone. There is no continuity; there is a gap here and a gap there, there is a new section added here and a new section there. If for no other reason, at least for giving continuous numbers to the provision, to the sections, of the Code, we should have new Code so that there should be no missing links.

Then, I come to the relevant provisions. I will first express my appreciation that the Select Committee has effected certain changes which are desirable. Take for instance, the amendment to section 173. Decidedly, an accused under the new provision, if this new Code comes into operation, will be in a better position than the accused who is unfortunately hauled up under the existing Code. Because this section says that various documents shall be supplied to the accused and the supplying of these documents will give him a better idea of the charges against him. This is a good thing in its own way and we may appreciate it. But, that is not enough.

Another thing that I can appreciate in a particuar manner is that formerly all appeals from the third class and the second class magistrates were to the District Magistrate. Under the Procedure Code of the Britisher, the District Magistrate was the pivot of all executive action and, I may say, the soul of administration of criminal justice. Mr. F. Stephen, who was in charge of the Bill in 1872, had to admit that the District Magistrate was endowed with so much powers that he was virtually the Governor of a district. At another place, he says that he is virtually the king of the particular district. So, when these appeals from the decisions of the second class and third class magistrates, who were subordinate to him in executive capacity, went to the District Magistrate, there was hardly any case in which the accused could expect any justice. But, fortunately for us, Dr. Katju has done something good and that good is that all appeals now from the decisions of magistrates of any category would be going to the Sessions Judge from whom we can expect a better type of dispensation of justice. That is a good thing in its own way.

I will make my observations subjectwise. Under this Bill all the magistrates have acquired some more powers. There is an augmentation of power to the First Class, Second Class and Third Class magistrates so far as the imposition of fine is concerned. Assistant Sessions Judges have acquired more powers. All the Magistrates and Judges stand to gain when this Bill becomes part of the Criminal Procedure Code. I do not mind giving some powers to the magistrates. But, my very relevant and pertinent question will be, do the magistrates command the confidence of the unfortunate accused who are hauled up before them. We must convince the people that the machinery we are evolving is a machinery which is conducive to proper justice to all the subjects without any distinction, without any discrimination. Only when such a foundation is laid and the confidence of the people gained, can we say "give more powers no harm if the powers are given. But, as there is no separation of the judiciary from the executive—there are only three States where the separation of the judiciary from the executive has taken place—Bombay, Madras and Saurashtrta—......

An Hon. Member: In Hyderabad also.

Another Hon. Member: Also in Bihar.

Shri S. S. More: I speak subject to correction. In the majority of the States there is no separation of the judiciary from the executive and in such States the magistrates that are destined to administer criminal justice are but limbs of the executive government and are likely to have more executive bias in criminal cases. Now, Dr. Katju has been feeling that there are so many acquittals. He has given some figures which are more imaginary than real. I had made a special request in the Select Committee that if it is his grievance that there are many acquittals, he should supply us with the necessary data from the reports of every State about the administration of law, giving us the number of cases filed, the number of cases ending in acquittal and the number of convictions. Why did he not give us the figures?

I have cared to analyse two reports which were available to me in the Library, reports regarding the administration of civil and criminal law—one from the Bombay State for the year 1952 and another from the U.P., the State about which Dr. Katju knows much better than anybody else. What is the picture we get? There were Special Magistrates in the Bombay State—Special Magistrate appointed under section 14. There were 44 acquittals and the number of convictions was 3463; the percentage of convictions was 98·7.

Dr. Katju: Is it 44 per cent. or 44 only?

Shri S. S. More: Only 44. Then, in the case of subordinate and stipendiary Magistrates, the number of acquittals was 1,94,663 and the number of convictions, 3,84,142. So, the percentage of convictions was 66·4.

I now come to U.P. There were no special Magistrates.

Dr. Katju: Probably my hon. friend is aware that the honarary Magistrates try mostly nuisance cases. making urine etc.

Shri S. S. More: In my part, when honorary magistrates were there—my knowledge is not very recent—they used to try even serious cases. There were first class magistrates and they tried not only ordinary cases of private complaints but even government prosecutions. (*Interruption*) I am submitting from my experience and my experience is something very different from Dr. Katju's (*Interruptions*) In U.P., subordinate and stipendiary magistrates acquitted 2,31,537 cases and 2,01,103 cases ended in conviction. The percentage comes to 46.

Dr. Katju: Forty-six per cent. convictions and 54 per cent. acquittals?

Shri S. S. More: Yes; that is your province.

Dr. Katju Our magistrates are very independent.

Shri S. S. More: The honorary magistrates sitting singly tried 60,480 cases and 33,206 cases resulted in conviction; the percentage comes to 36. Now, Dr. Katju in his speech never complained that the administration in U.P. was defective. On the contrary he was always appreciating that.

Dr. Katju: I never said one way or the other. Now, do not say something which I have not said, whether it is about U.P. or Bihar. That demolishes the argument that the magistrates are under the thumb of the police.

Shri S. S. More: I am only quoting facts and figures even though it goes against me. I want to ask one question to Dr. Katju. Why should we suppose the number of acquittals as alarmingly large? Why should we be so much alarmed at the number of acquittals?

Pandit K. C. Sharma (Meerut Distt.—South): It adds to the crime.

Shri S. S. More: Hon. Members will have their own opportunities and they should not allow me to be provoked by their interruptions.

Dr. Katju: You cannot complain about interruptions because you always interrupt everybody.

Shri A. M. Thomas: The greatest sinner of the House.

Shri S. S. More: I do not want that somebody else should imitate me in this evil practice. I am anxious that my speciality should not spread like a disease.

Now, I will go still further and ask who are responsible for the acquittals? Are they the accused? Are the accused bribing all the witnesses for prosecution to get acquitted, or is it that the police investigations are defective? I do not want to bother this House by quoting the decisions of the highest authorities, but different High Courts in cases which go to them either in revision or appeal, have stated that the police investigations were defective. The police investigations are not what they ought to be and if there is some lacuna, some missing link in the prosecution case, the judge or the magistrate is perfectly entitled—he is expected by law and principles of justice—to give benefit of that lacuna or defect to the accused. But here, Dr. Katju is approaching this problem from a different angle. He feels that the moment an accused is charge-sheeted by the police, he must be presumed to be guilty and his Procedure Code is for the purpose of securing speedy convictions of innocent people.

Dr. Katju: Who said so?

Shri S. S. More: This is what I say.

Mr. Deputy-Speaker: Does the hon. Member want this to be the preamble to this amending Bill?

Shri S. S. More: That is to Dr. Katju's benefit. If he is prepared to accept it I am prepared to allow him to use that for his own purpose. My submission is, speed is necessary, but speed acquired or achieved by sending innocent persons to the jail or even to the hangman, is not the speed which a welfare State can accept. Therefore what I say is, the Procedure Code is not at fault but it is the machinery. When I make this assertion I am relying on the weighty pronouncement which has been made by the Chief Justice of Supreme Court, Justice Mahajan in his very well considered and balanced opinion. Other judges too have said so. My submission is that the procedure for summon cases is being altered, the procedure for warrant cases is being altered and the procedure for committal for trial is being seriously damaged in the interest of speed. Now, Dr. Katju says,......

Shri A. M. Thomas: Say, Home Minister.

Shri S. S. More: My friend does not like my mentioning Dr. Katju, but when I mention 'Dr. Katju' in a personal way, I look upon him......

Mr. Deputy-Speaker: To avoid any difficulties, hon. Members hereafter may address the hon. Minister as the Home Minister.

Shri S. S. More: All right, Sir, I accept what you say. But, it is rather difficult for me because I will have to train my tongue that way. I am accustomed to the old way.

An Hon. Member: This is parliamentary way.

Shri S. S. More: Anyway, I accept your very wise direction. So, the Home Minister......

Mr. Deputy-Speaker: Hon. Member need not worry about interruptions; they are so gentle and silent.

Shri S. S. More: My submission is, summons case procedure is supposed to be for minor offences. Now, that is being extended and many more offences —from six months to one year punishments—are coming under it, so that something like 30 offences which were previously warrant case offences will be brought under the category of summons case procedure. The summons case procedure is superficial and perfunctory. The magistrate asks the

[Shri S. S. More]

accused: 'have you committed this offence' and the reply is 'No'. Then the evidence is heard. There is cross-examination, but it immediately follows the examination-in-chief. Now, what is the state of warrant case procedure? Under the Criminal Procedure Code there was one warrant case procedure for all cases, whether public or private. But, now, we have two sets of procedures; one set of procedure for police cases and another set for private cases with the result that a man who is charge-sheeted by the police will be at a tremendous disadvantage compared to the man who is proceeded against in a private complaint. I will make it perfectly clear to the House. Under the old procedure, under sections 252, 256 and 257 the accused used to get three chances to cross-examine the prosecution witnesses. I am not in favour of retaining all these three chances.

Dr. Katju: Say 'three *laddus*'.

Shri S. S. More: Why *laddus*? Cross-examination of prosecution witnesses is not a *laddu*.

I was saying that I do not want to go to the length of saying that all these three chances should be retained. I would say that some pruning is necessary and you may apply your knife here and there. To that extent, Sir, the procedure or the provisions of the Bill which was referred to the Select Committee was much better than the procedure which has emerged after the labours of the Select Committee. In a warrant case on a police report the accused is reduced to the position to a summons case trial. The prosecution witness there; he is examined, immediately cross-examined and the re-examination is there. Supposing some new matter comes out from the testimony of a later witness, then there is no chance for the accused to put the same to a witness who has already been discharged, for eliciting some further information which will be useful to him. I would rather say, that I am prepared to reconcile myself with the original Bill if we restore to some extent the provisions of the original Bill that even when an accused has exercised his right of cross-examination following immediately after the examination-in-chief, if the magistrate is convinced by reasons that certain witness must be again cross-examined for the ends of justice, he should allow it, that discretion ought to be given to the magistrate. That provision in the original Bill must be restored and that will be of great benefit because warrant cases are very serious cases. Some of them end in jails for a longer period than we can think of with unperturbed mind. In such cases if such a provision is there, the magistrates will only use it to the best advantage and on very good grounds.

Then regarding committal proceedings, the original provisions were undiluted reactionary provisions. They were designed to do the greatest harm to the accused who was supposed to have committed an offence triable by the Sessions Court. Now, in a spirit of compromise certain changes have been effected but they are not enough. I would say that unimportant witnesses might not be examined by a magistrate, that will be a saving of time, but as far as important or material witnesses are concerned, merely recording their statements in the presence of the accused is not enough. The original provision in the Bill was that the statement of all material witnesses shall be recorded under section 164. But that is done even in the absence of the accused. The only concession—a meagre concession, I would say—which has been given to the accused is that he shall be allowed the privilege of being present when the statement of the witnesses is being recorded by the magistrate. You will be particular to notice that this is the recording of 'statement' and not the recording of 'evidence.' This would work to the disadvantage of the prosecution itself. Take, for instance, section 288. If a witness has made certain statements in the lower court, and for reasons best known to himself, departs from that statement, then the prosecutor can make a request that the statement recorded in the lower court may be taken on the record of the sessions court under section 288. Such course is open because, his original deposition is evidence that the accused had the opportunity to cross-examine, and therefore, as it is evidence, it can very well go under section 288. Now, under the present provision, as it has emerged from the Select Committee, it is recording of the statement. It is not evidence, in the technical sense of the term. If it is not evidence, if a man is allowed to get his statement recorded in a lower court, and in the sessions court, for reasons which I need not analyse, it is changed, then the prosecution stands to lose. They cannot bring that original statement to record, as it is a statement without an opportunity to the accused for cross-examination, and therefore, that statement is not evidence of the witness and if it is not evidence, then section 288 would not come into operation. That is a positive disadvantage to the prosecution. I am as much anxious as the hon. Home Minister that all criminals, if they had really committed an offence, should be punished, but here, you are unwittingly leaving some gap in your chain which will result in the escape of even guilty persons. This should not happen. Why should not that accused have an opportunity to put some relevant questions to the witnesses? What will be the state of the statement? The prosecutor will be present. He will be asking some question to the witnesses. When the statement under section 164 is recorded, the magistrate is only a recording machine, and the witness gives his own case in his own rambling manner possibly, but under this new procedure, the prosecutor will ask some questions. If questions are asked, it amounts to examination-in-chief. If examination-in-chief is there, why should not the accused proceed to cross-examine? You are not only amending the Criminal Procedure Code but some relevant sections of the Evidence Act also which says that after examination-in-chief, there shall be cross-examination and re-examination. These sections are also automatically amended by this. I would request the hon. Home Minister to relax his rigidity to the accused and give him some chance to cross-examine the material witnesses subject to the necessary control by the trying magistrate. Either let us have this sort of procedure or I would rather go the whole hog and say, abolish the committal proceedings. Let the charge-sheet go to the sessions court, and as you have revised the procedure under a new section 198B, as far as defamation is concerned, let the sessions judge try a case, the charge-sheet of which is submitted to him as a warrant case under the old procedure, and that will give advantage to the accused. This is what I wanted to say regarding the procedure.

Shri A. M. Thomas: You have taken about one hour.

Shri S. S. More: I shall be very brief. As I was a member of the Select Committee, I have made so many points and I want to convince the House. If Mr. Thomas is already convinced, I need not tell him but there are many other Members who want to be convinced and I want to touch those aspects and points which would be debated during the course of the debate. I wish to bring to your notice the fact that I never participated in the debate on this Bill till now. This is the first opportunity that I am getting to have my say.

Mr. Deputy-Speaker: What I would suggest is, with regard to the old practice, there is no time-limit at all. But recently, for the purpose of expedition, the Business Advisory Committee has advised a time-limit and

[Mr. Deputy-Speaker]

its advice has been accepted. Whatever might be the time, still, all the 500 Members may not have a chance. Even if they should have a chance, the time will have to be further restricted. Therefore, normally, no hon. Member should take more than half an hour. I would expect each Member to take not more than 20 minutes. I would not ring the bell until fifteen minutes are over. Mr. More will please conclude soon.

Shri S. S. More: I am very thankful for the indulgence you have shown me. I was about to refer to the chapter case provisions. We feel, as political agitators and workers, that these proceedings are rarely utilised against a regular, habitual criminal. They are used against political workers or against persons who have no ostensible means of livelihood, that is against poor persons, whose poverty is due to non-fulfilment by the State of its responsibility in the matter of giving them work. Shri A. K. Gopalan has referred to the *satyagraha* that was carried on by some persons, as landless persons, against a sugar factory in North Satara District. I shall quote one instance. One lady by name Harnabai who belongs to a village in the Paltan Taluk in North Satara had a piece of land extending to over 30 acres. It was leased to a company at the rate of Rs. 2 per acre. It was well-irrigated land. She wanted that land back. She offered *satyagraha*. She was convicted, and this Harnabai, is more than 80 years of age, with sight dim, face full of wrinkles and all teeth gone; she cannot walk without the aid of a helper. This poor lady, after her conviction—even the magistrate, on account of her age, gave her only one day's punishment—is now being proceeded against under section 107, and she is called upon to give security for not disturbing the peace. A lady who is on the point of entering the other world and has no strength or power to disturb the peace of this world, is being called upon to furnish security. She is asked to go instead of to a magistrate who is at a distance of seven miles from her village, to go 40 miles to another magistrate, in a vindictive manner, because the case has been started by the police. The police know that this sort of chapter case will not stand; therefore they are trying to see that all the persons concerned are financially exhausted; and hence they are dragged in distant courts. My real grievance is that for matters under sections 108, 109 and 110, the procedure prescribed was that of a warrant case, but now, there is a clause which says that the procedure under section 117 shall be that of a summons case. This summons case procedure is receiving a sort of treatment—I would say—of favouritism. Warrant cases are reduced to the position of summons cases and even the sessions court procedure is patterned after the summons case procedure. Everywhere, it is so; that might be a way of doing things in an expeditious manner, but that expedition will be at the cost of justice.

Then, I shall refer to section 162. No doubt, the hon. Home Minister had conceded some ground and kept section 162 in some form. But he has extracted two advantages for the prosecution. Under the old section it could be used only for contradiction by the accused. But now he has secured two advantages to the prosecution: the prosecutor can use that statement to cross-examine his own witness and he can further use that statement for the purpose of re-examination of a witness to whom some part of the statement was shown by the accused. I think that a big slice of whatever advantage was given by one hand has been taken away by the other.

Now I come to the clause relating to defamation. I need not repeat the arguments which have been advanced already. This is a matter of so much importance that for the sake of emphasis some repetition will be pardonable. I can understand the President, the Vice-President or even the Governors being placed in a special category. But why should the Ministers who are politicians, seasoned politicians, be so sensitive to attacks which might be in the nature of defamation? It is unreasonably assumed that under these provisions only the Press will be suppressed. But that is not a fact. The elections are approaching very fast and the Members of the Opposition Parties will be going about their campaigns. The elections in Andhra will be coming up in February next. Suppose the members of the Opposition in Andhra go about attacking the Ministers there?

Mr. Deputy-Speaker: The Ministers have resigned there!

Shri S. S. More: It is a moot point that you have raised. If the offence refers to the actions of a Minister when he was in office, even his subsequent resignation will not nullify or take the offence to some other category. That is my submission.

Then the Ministers will say, "We are defamed". Some secretaries will be ready to prosecute. That is discriminatory. It leaves a sort of bad taste. The Congress people feel that they will be remaining here in power for ever, till enternity. But under democracy even the Opposition parties have every chance. We should not draw conclusions by the present picture, or by the conditions that are prevailing. I would say that no person who goes to the ministerial *gaddi*, or no officer who accepts office under certain conditions, should be safeguarded behind the iron curtain of a provision like this.

Even about the Press I have got so many things to say. It is not that we shall always complement the Press. But we cannot forget the fact that the Press does discharge certain duties as the watch-dogs of public interests. Possibly, they open some scandal. I need not remind you, Mr. Deputy-Speaker, that during the last six or seven years so many scandals came to light because the Press was bold enough to bring them to the notice of the public. I need not enumerate the scandals: the scandals were there. If the Press had not taken courage in both their hands and at some risk to themselves, because some gods were likely to be offended, ventured to give the public an inkling into the scandals, they would have remained deeply hurried like the Egyptian mummies. So, the Press has been doing a useful service.

The Home Minister asks: "What am I doing? I am as much interested in opening up all corruption as you are. I only try you." Let there be an enquiry: let it be a sort of judicial enquiry. Now under the present procedure the man who is doing the greatest service to the country will be the first to suffer. You were the Chairman of the Estimates Committee. Our Estimates Committee and Public Accounts Committee have exposed so many cases of corruption, inefficiency. When the malady is so serious is it not necessary that there must be somebody who can with courage point out his finger and say: "Here is the real source of danger." But these provisions will hit those who are out to expose corruption; will punish those who are out to expose inefficiency. It is not so innocent as the hon. Minister has presented it to the House. Here the guilty man will come as a witness for the prosecutor and the man who has done the greatest service to the country's finances, the country's honesty and integrity, will be in the prisoner's dock. Is that equitable? Is that reasonable?

Mr. Deputy-Speaker: That is so even in a private complaint.

Shri S. S. More: You have sufficient experience at the bar. A magistrate's approach, a judge's approach to a case filed by a private person will be world apart from his approach to a case filed by Government. He will assume that because sanction has been given, the sanctioning authority must have satisfied itself. The prosecutor is coming forward with his case: so, the prosecutor must have also weighed the facts of the case and seen that it is a good case. Such factors are likely to influence his mind. You know how

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human mind works. So, his approach to the accused will be entirely different from his approach to an accused in a case filed by a private party. Not only that: who is going to suffer. A has committed some corruption: B has ventured to expose. Now in order to protect A the public finances will be taxed. The cost on the public prosecutor, the cost on the witness all these will be debited to Government revenues. Supposing a man who is accused of some corruption goes as a private complainant and succeeds in seeing the man convicted. Convictions are not always in accordance with real facts. Even then the expenses that he has incurred will be a sort of punishment to him. In this case the ugly child of corruption will be carried by Government, will be looked after by Government at public cost. When in this country so many people are starving we shall be spending money to give protections corrupt officers and even corrupt Ministers.

In the end, I would make an earnest appeal to the Home Minister. I would ask him to withdraw the Bill, if not at least postpone consideration of it till a Law Commission is appointed and it goes into all the aspects of criminal jurisprudence and criminal law administration in this country. Then only shall we be in a position to consider whether the different provisions that are sought to be amended deserve, or need any, amendment or not.

2 P.M.

Shri Raghubir Sahai (Etah Distt.-North East *cum* Budaun Distt.—East): Mr. Deputy-Speaker, I would just request......

Mr. Deputy-Speaker: Hon. Members will bear the time limit in mind.

Shri Lokenath Mishra (Puri): May I request one thing Sir? There will perhaps be so many speakers on this Bill. May I request you to kindly ascertain how many Members want to speak so that you may divide the time according to convenience.

Mr. Deputy-Speaker: I have no objection. But, the House is not full. Whoever has not come here may get up tomorrow and it may go on......

An Hon. Member: Getting up and sitting down is an unpleasant thing....

Shri K. K. Basu: Since he has become a Member of Parliament he has got to do it.

Mr. Deputy-Speaker: Even if I ascertain the number unless I fix the order and call them, they will have to get up and sit down.

Shri Lokenath Mishra: That can be done.

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Shri Lokenath Mishra: You can fix so many speakers today and......

Mr. Deputy-Speaker: I shall try to call as many as possible. Fifteen minutes—each will have.

Shri Raghubir Sahai: I think you will agree with me that this Bill can be discussed from many points of view but at this stage, the most appropriate point of view for discussing this Bill would be to see how far the objectives stated in the aims and objects of this Bill have been met because I believe that a good many of the speeches that have been made on this Bill since yesterday emphasised those points which should have been done in the earlier stage of the discussion of this Bill. While coming to the aims and objects of this Bill, you will see that this Bill was originally introduced into this House because it was considered that the present system of administration of criminal justice was very expensive, dilatory, and cumbersome and there was perjury prevailing on a very large scale. We shall have to see how far those objectives have been attained by the Bill as it has emerged from the Select Committee.

Originally when the Bill was introduced here and was brought up for discussion, many hon. Members—distinguished lawyers like Mr. Chatterjee and Mr. Bhargava—expressed their opinion on the provisions of this Bill. They put them in very strong terms and they condemned many of the important provisions of the Bill. Outside the Parliament also, the original Bill was subjected to a lot of criticism. As a result of these criticisms, the Bill was referred to the Joint Select Committee of both the Houses. Before the Joint Select Committee views of almost every section of the people who were competent enough to express their opinion on this Bill were placed by the Government and by the hon. Minister. Those views were studied and discussed threadbare and as a result of their discussion, the present Bill has come up. As has been admitted by some hon. Members, as a result of their discussion and deliberations in the Committee the present Bill has been vastly improved. I congratulate those hon. Members who have stated this bare truth.

We have to see how far the Bill, as it has emerged from the Select Committee, has come to the expectations of the aims and objects stated in the original Bill. I will not say that the Bill is the last word on the Criminal Procedure Code; it cannot be improved any further or that every provision of the Code has been touched upon and every possible amendment has been made. This will be far from truth. I will not make that bombastic claim. But I beg to submit that considering the Bill from the limited scope which has been placed before us in the Statement of Objects and Reasons, I think the Joint Select Committee had succeeded to a very large extent. In support of what I say, I quote some of the instances.

Take, for instance, the provision under sections 145 and 146. Every practising lawyer knows what is the state of affairs in cases under these sections before the magistrates. In my own place, Budaun there was a learned magistrate, an I.A.S. and while he remained in the district in charge of the sub-division, he never decided a single case under these sections and that gentleman remained there for over two long years. Happily I confess, the magistrate has been transferred to Rajasthan. Look at the long latitude that the magistrates have in deciding cases under sections 145 and 146. No time limit and no limit on the expenditure or worry and trouble to the litigants. Under this provision which has now been approved by the Select Committee, the hands of those magistrates have been tied down. They must decide the question of possession within two months and if somehow they are unable to decide that question they are required to frame an issue which should be remitted to the civil court and the civil court has been asked to decide that question within three months. Within five months' time at the most, a case under sections 145 and 146 must be decided. I submit this is a distinct improvement on the present state of affairs; that will certainly cause less expenditure. The trial will be speedy and that will cause less trouble to the litigant public.

Another point is this, with regard to commitment proceedings. While considering that question—a very controversial question—we had to deal with the opinions of learned judges of the high courts, the opinion of the Supreme Court Judges, lawyers, lawyears' associations, etc. I may inform the hon. Members that if they go through the bulky volumes of these opinions, they would find that the opinion is equally divided. On the one hand, very learned judges and lawyers are of opinion that commitment proceedings should stay and on the other hand, there is an equally weighty opinion that the commitment proceedings should go, lock stock and barrel.

[Shri S. S. More]

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[Shri Raghubir Sahai]

barrel. We have adopted a middle course that time should not be uselessly spent. All formal evidence has been done away with. Only material witnesses who have seen the occurrence with their own eyes are required to be produced and their evidence would be recorded before the accused and before their counsel. But as ordinarily happens in committal proceedings, lawyers do not generally cross-examine. So the right of cross-examination has been taken away. I submit that under the changed procedure commitment proceedings would take very little time and would cause less worry and would involve less expense.

Thirdly, if we look at the changed procedure for the trial of warrant cases we would find that formerly an accused had three chances of cross-examination. Any number of adjournments could be given by the court, and the trial in the lower court was a protracted trial. The consensus of opinion on this point was, and is, that three chances for cross-examination are not necessary. So, taking our cue from that, in the Joint Select Committee we have come to this conclusion that only one right of cross-examination should be given and the trial under warrant cases should be on the same lines as in the sessions court. Personally I would have preferred that this one right of cross-examination should have been exercised after all the prosecution evidence was recorded and not as provided in this Bill. I have in my Minute of Dissent given expression to my ideas with regard to that. The Wanchoo Committee in U.P., presided over by one of the High Court Judges of Allahabad who now occupies the position of Chief Justice of Rajasthan, also recommended that although one right of cross-examination should be given in warrant cases, that right should be given after all the prosecution evidence had been recorded. But even as it is, I would submit that this would save lot of time and lot of expense.

Then there are various other provisions in the Bill which would be welcomed by the lawyer class, by those who would be called upon to deal with cases in the courts of Magistrates and Judges. For instance, the right has been given to an accused to enter into the witness box and to be his own witness. This is a very important right. In England we learn that it was fifty or sixty years back that the Evidence Act had been completely amended on this point. There the accused has a right to enter the witness-box and to make his own statement, for what it was worth. Now this right has been given here also under the provisions of the Bill. I welcome this right and I hope that the country also would welcome this. By giving this right to the accused to enter the witness box I do hope that trials would be held in less time and that there would be less expense and that the Judges also would be in a better position to come to a right decision.

Similarly many other rights have been given to the accused. For instance all the material on which the police rely would be given to him and his counsel much before the case would start in a criminal court. All those copies would be given free of charge. That is a very valuable right, a very valuable concession to the accused.

Similarly, up to this time lawyers as well as accused felt great difficulty in securing bail from courts. Sometimes magistrates and Judges insisted on verification of the sureties. That was very difficult, and because of that insistence sometimes the accused had to remain in jail for long. Now a salutary provision has been introduced in this Bill that on filing affidavits bail could be granted. I suppose that is also a very valuable right.

I can quote many other provisions but because I know that I have got a limited time at my disposal I would not dwell on them. But I submit that what I have given, and which can be added to, is not exhaustive but illustrative. And, as I said in the beginning, if all these provisions are viewed from the single standpoint mentioned in the Statement of Objects and Reasons of the original Bill, we would come to the conclusion that to a very large extent trials in criminal courts would be speedy, they would involve less expense, they would be less cumbersome and would be in the larger interests of the country.

Having said this I must say there are certain grave lacunae also in the Bill. And, as hon. Members would find from my Minute of Dissent, I have emphasised the most important point with regard to putting down perjury. I quite appreciate the feelings of the hon. the Home Minister that if he is anxious that the trial should be speedy, if he is anxious that the trial should be inexpensive, if he is anxious that the trial should not be diatory, he is also anxious that the prevailing evil of perjury should be put down. With that end in view in the original Bill he proposed that as soon as the presiding officer of the court comes to the conclusion that a witness before him has perjured he can then and there adopt summary proceedings and punish him. That was his own view to put down perjury. But in the Joint Select Committee this question was considered at great length. Competent and authoritative persons said otherwise, and they said that this remedy was worse than the disease; that is to say, if you keep this provision, many honest persons who would have otherwise entered into the witness box would hesitate to do so; instead of helping the courts you will be shutting them from finding out the truth; so this provision should not remain there. And the Joint Select Committee in their best judgment amended that original provision, and now the provision is that if a Magistrate or Judge comes to the conclusion that a particular witness before him has perjured he would simply make a note in his judgment that he has done so and he would recommend that he may be tried before another Court and he would file a complaint. Before that other Magistrate he can be fined only to the extent of one hundred rupees and no more. My question to the hon. the Home Minister is: will that put down perjury?

Dr. Katju: Are you quite sure about its being only a fine of one hundred rupees? I thought it was six years.

Shri Raghubir Sahai: It is only fine as far as I remember.

Dr. Katju: Then you will have to add to it. It will be a regular trial for perjury, whatever the section may be. If there is a lacuna left, it can be cured.

Mr. Deputy-Speaker: What is the section referred to?

Shri Raghubir Sahai: At the present moment in the amended Bill it is only fine up to Rs. 100 and not sentence of imprisonment. But I submit even if you put......

Mr. Deputy-Speaker: What is that section?

Shri S. S. More: Clause 90 relates to perjury, and 91 relates to absenting witness. And the fine of Rs. 100 is for the absenting witness, not for perjury.

Shri Raghubir Sahai: I stand corrected. This provision with regard to fine of Rs. 100 is for non-attendance of court.

Mr. Deputy-Speaker: Very well. That is the next section. That is all right. Rs. 100 is not there. That is for next one, non-appearance.

Dr. Katju: That is for non-appearance as witness, but this would be a trial for perjury.

Shri Raghubir Sahai: Quite right. I stand corrected. What I mean to say is that the magistrate before whom the witness has perjured would not deal with him then and there. He would simply file a complaint before another

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magistrate who would deal with him according to law. Even then I say will you put down perjury? My own feeling is that would not put it down.

Dr. Katju: It all depends on how the magistrates act.

Shri Raghubir Sahai: Whether the magistrate before whom a witness perjures punishes him then and there or another magistrate before whom he is sent up for trial punishes him, matters little. That would punish only the stray perjuror but would not put down perjury which is rampant.

Mr. Deputy-Speaker: What is the suggestion of the hon. Member?

Shri Raghubir Sahai: My suggestion is that this is only a negative approach.

Dr. Katju: What is the positive approach?

Shri Raghubir Sahai: There must be a positive approach.

Mr. Deputy-Speaker: What is the positive approach?

Shri Raghubir Sahai: You give some preferential treatment for his speaking the truth. and at least for God's sake there must not be a statutory provision that false replies can be given.

Now, I would invite your attention to section 342 of the Crimnal Procedure Code, sub-section (2) wherein it is stated:

> "The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them;"

Dr. Katju: May I interrupt? My hon. friend was dealing with the witness and has come to the accused. What is the positive answer to stop perjury?

Shri Raghubir Sahai: I am coming to that, Doctor Saheb.

Dr. Katju: I am very sorry.

Shri Raghubir Sahai: There is this statutory provision that a false answer can be given by an accused. Now, I for one would go to the length that even an accused should not be encouraged to give a false answer. I can appreciate his right...

Sir, I want some indulgence. I may be given a few minutes more.

Mr. Deputy-Speaker: Very well. I have given 25 minutes. Let him take five minutes.

Shri Raghubir Sahai: Yes, I will be very brief.

So, my submission is that even an accused should be encouraged to speak the truth because we have to create an atmosphere in which everybody speaks the truth. Everybody admits that now-a-days courts are dens of falsehood and the atmosphere......

Mr. Deputy-Speaker: Does he mean then that the accused should be convicted for the regular offence with which he is charged and again for perjury for making the false statement.

Shri Raghubir Sahai: Not at all.

Mr. Deputy-Speaker: That is what it would come to.

Shri Raghubir Sahai: That would also be a wrong impression because the statement of accused would not be on oath.

Mr. Deputy-Speaker: Therefore.. ...

Shri Raghubir Sahai: Only when a witness makes a statement on oath can he be charged for perjury. He can refuse to give an answer. I can understand that.

Mr. Deputy-Speaker: But assuming he has given an answer is he to be charged for perjury, for giving that answer? That is, for his statement he is prosecuted. For the substantive offence again he is prosecuted, that is, twice.

Shri Raghubir Sahai: He cannot be charged for giving a false answer. My own submission is that these words that he can give a false answer......

Mr. Deputy-Speaker: May be deleted?

Shri Raghubir Sahai: Should be deleted.

Mr. Deputy-Speaker: Very good.

Shri Raghubir Sahai: Because that is giving statutory liberty for making false statements.

Mr. Deputy-Speaker: Even . otherwise, the same consequences ensue.

Shri Raghubir Sahai: They may. When I studied the criminal law of England, I found that no such liberty has been given in England. We have copied our criminal law from England. We have copied our Indian Penal Code from England. We have copied our Indian Evidence Act from England. And they have also been very cautious about the rights of the accused, but they have not given this right that he can give a false answer. I would go to the extent that even a true answer from the accused should be considered to be an extenuating circumstance. In section 562 where you have stated the extenuating circumstances for awarding lesser punishment or for letting off the accused with only an admonition, you have taken into consideration age, antecedents, character etc. of an accused. Why not pray take into consideration also the fact that he made a true statement, concealing nothing? It is not in every case that the magistrate or the judge is influenced when a true statement has been made. That right or discretion of the magistrate and of the Judge remains in tact, but at least in law we ought to concede that some consideration, some merit has been shown to speaking the truth.

My Minute of Dissent related to this matter. My feelings are not less strong than those of the hon. Home Minister on the point of perjury, but I submit that the step that has been taken to put down perjury is not quite sufficient and in my opinion if you take these two things together, as suggested by me perjury will be put down to a very great extent.

I will be bringing my remarks to a close, but before I do so, you will permit me to say that I join with many of my friends who have said something about the police. I honestly feel that the Bill is a great improvement on the present Criminal Procedure Code and no less a man than Dr. Katju could have sponsored it, because he has the real courage of his convictions in coming forward, in appreciating the voice of the public and in bringing this amending Bill, but I do submit that even if this Bill, every provision of it, is accepted by this House—and I do hope they will be accepted with certain modifications here and there—the expectations will not come true if the police is not reformed. I also feel that, the learned Home Minister, does feel about this question and he would certainly take steps to reform the police sooner than later.

I congratulate the Home Minister on bringing forward this Bill and on having kept an open mind throughout. I do hope that he will keep an open mind even in the discussion of this Bill here. I support this Bill subject to my Minute of Dissent.

Acharya Kripalani (Bhagalpur *cum* Purnea): Sir, the difficulties that arise in any piece of legislation undertaken at present, are due to the fact that we do not go to the fundamentals, but we try to make small changes here and there. We fail to realise that most of the political institutions in this country were introduced by a foreign tyranny. It was a kind of totalitarian government, which had certain democratic traditions at home; but here, in India, the government was totalitarian. The criminal procedure introduced by this totalitarian or police government was modified by certain principles of jurisprudence with which the rulers were familiar with in England. The Indian Criminal Procedure Code has some of these basic principles of scientific jurisprudence. But there are many sections in it, which were meant to buttress the police State, and keep political power in the hands of the foreigner. The

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whole of the administrative machinery was devised priminarly for that purpose.

We always say that after Independence there has been a revolution. Yet we proceed, in our thinking, on the old basis. We had a Constituent Assembly,—which was expected to usher in a new order of things—that gave us a new Constitution. It guaranteed to us certain fundamental rights. It was necessary, therefore, to change our criminal procedure and even our Criminal Code, in accordance with the basic principles that were laid down in the Constitution. Instead of that, what we do, pledged as we are and pledged as our Government are to the maintenance of the *status quo*, is to go on changing this bit here, and that bit there. It is just like patching up an old garment. You put in one rag in one place, and there is a tear in another place; then you produce another rag and put it there and there is yet another hole. This is not the way of a country, that is out to introduce a new social order and that has bidden goodbye to past follies. It functions more or less in a revolutionary way.

If the Criminal Procedure Code was to be tampered with, I think it was necessary to appoint a legal committee to go into the whole question, and find out what procedures are against the fundamental principles guaranteed to us by the Constitution. It should have also reviewed the Criminal Procedure Code. Instead of doing this, as in other matters, so in law, we are proceeding piecemeal. We do this in our educational policy, not realising that the old system of education was introduced in India, for purposes which no longer hold good. Thus we go on from blunder to blunder.

I would not examine the details of the changes that have been proposed, because I was told yesterday by Dr. Katju with authority, that I did not know law. I must humbly say that it is a fact. I have never been a lawyer, much less a criminal lawyer. But I have heard it said that law is based on commonsense. Therefore, I think that as a citizen possessing some commonsense, I might be able to contribute something on the changes that are sought to be made.

Let us then first examine the purpose of this Bill. The purpose is that justice be made speedy and cheap. I am afraid, if justice had been speedy and cheap, Dr. Katju, with all his legal knowledge and acumen may not have been able to rise to his present eminence. However, we are all agreed that justice should be speedy and cheap. But is it a fact that it is only the elaborate procedure of the Criminal Procedure Code that causes delay in justice? I suggest that it is the Home Minister's own department, that is responsible for delay more than any procedure prescribed in the Procedure Code.

Dr. Katju: The Home Minister does not dispense justice.

Acharya Kripalani: He does not dispense justice. That I know. But he has the instruments for investigation in his hands.

Dr. Katju: Have I?

Acharya Kripalani: And it is these instruments of investigation that ought to be corrected.

Dr. Katju: Very good.

Acharya Kripalani: If he is serious, his attention must be drawn to this machinery over which he presides. I venture to say, even without being a lawyer, that there is delay in investigation by the investigating authorities. Why is there delay in investigation? I suggest it is because delay makes it possible to extract some illegal gratification. Then, sometimes the court is told that the accused is absconding, but no effort is made to find him. One accused may be absconding, while twenty others may rot in jail. We know also how the summoning of the witnesses is done. If a witness can pay a few rupees, the summons are not served. This is very notorious in India. Where there is a partial separation of the executive from the judiciary, what happens is that the police is not very helpful to the judiciary.

Then, if Dr. Katju were carefully to investigate things, he would find that the next cause of delay is the magistracy itself. It has to perform not only judicial functions, but also executive functions; and these executive functions go on increasing, even as the numbers of our local and Central Ministers, Deputy Ministers, Parliamentary Secretaries, etc. etc. go on increasing.

Dr. Katju: Sorry to interrupt my hon. friend. May I say that there is now an institution called judicial magistrates in every State? There is a very large number of them, who have no executive authority, and no executive duties to discharge at all. May I say this, because this point is being raised over and over again? *(Interruptions)*.

Shri S. S. More: It may be only in a minority of States.

Acharya Kripalani: If it were true, what hinders us from separating the judiciary from the executive?

Mr. Deputy-Speaker: What the hon. Minister says is that in most States it has been done.

Several Hon. Members: No, no.

Shri V. P. Nayar (Chirayinkil): What are the States?

Mr. Deputy-Speaker: The hon. Member may go on.

Shri K. K. Basu: The hon. Minister is not well informed.

Acharya Kripalani: Then, of course, there are frequent transfers, which make it necessary to go on with the trials again.

Then, there are the lawyers, with their hair-splitting technicalities and technical objections.

Dr. Katju: There is Mr. More behind you.

Acharya Kripalani: Yes; he belongs to your fraternity.

Shri S. S. More: I plead guilty.

Acharya Kripalani: So does he. Therefore, he wants to amend things. The proverb says that a cat after eating a hundred rats thought of going on a pilgrimage. The judiciary is dilatory.

Dr. Katju: I never saw such a cut myself.

Acharya Kripalani: I say the Sessions Judges have more vacations that is good for their souls and for their legal knowledge. There is already so much accumulation of work that it would be better temporarily to appoint a few more judges and clear that off once for all and begin anew. *(Interruptions)* It was also said—I must believe the Home Minister, because in this House, it is said that whatever the Minister says about facts must be accepted. He says that there is separation of judiciary and the executive. Some of my friends here doubt it. But, I take it, if this reform has come, there is very little need to tamper with the procedure. The procedure was laid down on certain fundamental principles of jurisprudence. One was that the accused must get every opportunity to prove his innocence, because it was supposed that it is better that ten criminals go free than that one innocent man be punished.

Mr. Deputy-Speaker: It will not be accepted by any lawyer.

Acharya Kripalani: That was the jurisprudence which I read when I was in my college.

Dr. Katju: That is the presumption of a system which the British conquerors brought with them and you hate it.

Acharya Kripalani: I must correct the Home Minister. I said that though the Government was totalita-

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rian, yet because the Britishers were used to certain liberal principles, they were introduced here.

Dr. Katju: I think you said, scrap it.

Acharya Kripalani: I never said, scrap it. I said it must be reviewed as a whole and not dealt with piecemeal.

Dr. Katju: There is no piecemeal.

Mr. Deputy-Speaker: I was only saying that the fundamental principle is not for the accused to prove his innocence but for the prosecution to prove his guilt. I think the hon. Member was unconsciously siding with the hon. Home Minister.

Acharya Kripalani: I thank you for the correction, Sir. We are told that the limitation of the committal proceedings would make for economy and for speediness. But, I am afraid—and here many of the luminaries of the legal profession are with me—that the procedure in the Sessions court would be more cumbersome and the Sessions Court Judges cost more than the ordinary magistrates and their time is more precious. (*Interruptions*).

Mr. Deputy-Speaker: But, there is no additional expenditure.

Acharya Kripalani: Not only that; the fees that are charged in the sessions court are higher than in the ordinary magistrates' courts.

Dr. Katju: But they are double proceedings, commitment proceedigs plus the sessions court proceedings.

Mr. Deputy-Speaker: He thinks that in many cases, in the preliminary stage itself, there will be a discharge in which case there need not be any necessity to come to the Sessions Court.

Dr. Katju: He does not say so. The number of discharges is about one per cent. He has been mis-informed by his lawyer friends.

Acharya Kripalani: Yes; they are also like you. You are mis-informing the House about the intentions of the legislation.

Then, there is the accused offering himself as the witness. This is only an apparent change. I do not think any accused would offer himself as witness as proceedings of the court are conducted today. Dr. Katju proposes a change which nobody will use.

Dr. Katju: Dr. Katju did not do it; it is the Joint Select Committee consisting of 49 lawyers who have accepted it.

Shri Pataskar (Jalgaon): Were they all lawyers?

Dr. Katju: If they were not all lawyers, let us say 39 lawyers. Why do you crucify everything?

Acharya Kripalani: Our trouble is when Doctors disagree, what should we do? We can only say, be careful about the changes proposed. If I mistake not, some of the highest authorities on the Bench have disagreed very vehemently wth Dr. Katju. I wish, instead of being translated into a Minister Dr. Katju had been translated to the Supreme Court.

Shri K. K. Basu: Oh! God.

Acharya Kripalani: That would have been much more advantageous for law than at present.

Shri K. K. Basu: Every one will be slaughtered by Government.

Acharya Kripalani: That is defamation of Government, Sir.

Dr. Katju: Defame everybody.

Acharya Kripalani: We know that the former foreign rulers were very much concerned with their employees, and they allowed the bureaucrats to enjoy all sorts of advantages. We hoped that with democracy and with freedom, some of these privileges will be curtailed because they are offensive to democracy. They create class distinctions. The government servant is placed above the citizen who is his master. We thought that in democracy, the citizen was the master but the theory with our Ministers seems to be that not the citizen but the bureaucrat is the master, and he is treated with preference. A common citizen who is defamed has to defend himself through a different procedure than the bureaucrat. In spite of many advantages he has in other respects he has an advantage even in this respect. So far as I remember, though I am not a lawyer, under British rule, if any officer was defamed the Government obliged him to defend himself and if he was honourably acquitted the money that he had spent on the case would be paid back to him by the Government. If he failed, it would be paid by him and he must bear the consequence of his actions. This was the procedure under foreign rule, under a totalitarian Government. Now, under democracy we are told that this special class must have more privileges than they had under foreign domination. It passes my comprehension how the Home Minister can come with such a proposition in a democratic House like this. He is surprised when people call him 'reactionary'. It is not that he personally is reactionary; but he wants things to be done in a democracy which are unheard of in a democracy. Personally he is a very amiable gentleman; he is friendly towards us and so are we friendly towards him. But, the fact is, his ideas are not suited to democracy.

Dr. Katju: What about Press Commission?

Acharya Kripalani: I am coming to the Press Commission. What does the Press Commission say? It says that such cases must go to the High Court. Our Home Minister equates the Sessions Courts to the High Court. No lawyer can do this. The highest court......

Dr. Katju: May I say that my hon. friend is quite wrong? So far as the Press Commission is concerned it does not go to the High Court but it goes to the Magistrate.

Acharya Kripalani: I am repeating your own words of yesterday. You mentioned that the Press Commission said that such cases should go to the High Court.

Dr. Katju: No, no.

Dr. Lanka Sundaram (Visakhapatnam): No; it goes to the Magistrate under section 194.

Dr. Katju: It was the journalists who said that. The Press Commission said: 'let us go to the Magistrate'.

Acharya Kripalani: Then I was told that the whole case must first be examined by the Advocate-General; is it not so? Now, we are told that it must be examined by the Public Prosecutor. You call him Public Prosecutor but I call him 'Police Prosecutor'.

Dr. Katju: Very good.

An Hon. Member: He does not prosecute the police.

Acharya Kripalani: He does not prosecute the police but he prosecutes for the police.

Shri Sadhan Gupta (Calcutta—South-East): Let us call him 'Public Prosecutor'.

Acharya Kripalani: That will be the proper name. If Home Minister wanted to give effect to the suggestion of the Press he should have done it as a whole and not in parts. We are not here to be told that this section of population desires this thing or that thing. We have to think from a larger point of view. We are not concerned with what the Press Commission, consisting of press lords, said or did not say. Here we are considering the rights of the people and it does not behove the Home Minister to throw in our face that the press people said this and that. We

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would like to know who are the press people who said like that? Why should not a public servant including a Minister defend himself? Why; because we are told that our people are so depraved that they accuse everybody who is in power? I do not know the depravity of our people in this respect. I rather know that our people worship power more than any other people in the world. Whoever is in power becomes their hero and is surrounded by a crowd of flatterers. This is generally true to our people who have lived for centuries under slavery. They have always worshipped authority. In former days even the Brahmans would go and bow before a King. They did so even before Aurangazeb and had his *darshan*. Why? Because in our country we worship power. Now, we have become so depraved that we have acquired the contrary habit of denouncing whoever is in authority. Dr. Katju has no suspicion that the administrators are not like Caeser's wife, above suspicion; though I have my doubts whether Caeser's wife was above suspicion.

Mr. Deputy-Speaker: Let the past bury the dead.

Kumari Annie Mascarene (Trivandrum): Is it the wisdom of the age?

Acharya Kripalani: I have found that in the very few prosecutions of high officers, launched by the Government public rumours have invariably been confirmed. They have not contradicted the rumours. There are many honourable people in the administration, higher up, whose reputation is unsullied. Nobody says a word about them. Why are our people supposed to be prone to run down those who are in power? It is not a fact. The fact is that our administration has deteriorated and if there is a little more suspicion than before it is because of our own conduct. People begin to suspect when we conduct our affairs in a doubtful manner—when we have our river valley schemes, our chemical factories, fertiliser factory.....

Dr. Lanka Sundaram: Bhakra Nangal.

Acharya Kripalani: Yes; Bhakra Nangal, Damodar Valley and all sorts of national schemes, then our permit system going wrong. Even when Government undertakes the execution of proper schemes these are vitiated by the corruption that prevails. An ordinary citizen becomes suspicious when there are so many scandals about jeeps, blankets etc. I do not know how many scandals there are! I am sure that if in any other country there had been so many suspicious transactions—not merely that but suspicious transactions that have been proved by Audit—a democratic Government would not have lasted even for a day. It would be kicked out of office. Instead of correcting your own house you come to us to modify criminal proceeding. First put your own house in order, then come to us to change the rules of procedure. You do not correct yourself, you do not have strict control over your bureaucracy but you want merely to change the law. Whatever little scientific jurisprudence was introduced by the Englishmen you want to destroy it. You also take it for granted that everybody is a criminal; everybody is a perjurer. Yes; there are criminals and there are perjurers here as in any other country in the world. A few people, Sir, are intrinsically honest and a few people are intrinsically dishonest. Most of us are made honest by proper social circumstances and most of us are made dishonest by adverse social circumstances. Instead of changing social circumstances you want to change the procedure, a procedure which was laid down on the basis of a scientific jurisprudence. This is not the way, may I submit Sir, of reform. If you want reform you can have it and let a committee be appointed to go through the whole of this procedure and bring it in conformity with our Constitution which recognises certain basic principles and which also recognises the liberties of the citizens.

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Then let us see, how our justice is delayed and how it has become costly. This is a recent phenomenon in India; it is not old. In India justice was speedy and it did cost very little. You go on increasing your expenditure and when you cannot meet it you go on increasing court fees. You go on increasing the money that is paid for copies of complaints, evidences etc. The procedure that was already elaborate under the British rule, you have made it more elaborate and more costly. The remedy is to allow justice to be done in an organised group of villages. Have a judicial committee attached to Panchayats of a group of villages. Give them the advantage of some judicial officer to help them and let justice be administered locally there. There, in the villages, people are less likely to be perjurers than in the city where they are away from their surroundings and can say anything and nobody would take note of it. What they say in distant city courts does not reach the village. But if, for groups of villages, you have village courts, people will know who has told the truth and who has not told the truth. In the village, even though outwardly nothing may appear to be known, everybody knows who is a criminal and who is not a criminal. This is because, village people live intimately together. If you really want to have speedy justice and cheap justice, you will have to follow the genius of India and not look to foreigner for guidance much less mind you tinker with what they introduced here and take away all the liberal provisions which they introduced in spite of their totalitarian methods. This is the only way to introduce reforms. The other way that you are following is, as I said, patching old garments. Patch them in one place and there is a rent in another place. Patch up that rent, and there is a rent somewhere else. This is not the way of people who want to usher in a new order. This is not the way of those who want to have a welfare State. They should be brave to take high risks. They should be brave enough to take radical measures and overhaul things. If this is not done, after two or three years, Mr. Katju—if he is there then—or his successor will come to us again and say, what was done recently does not work well, and we will have to tinker with the Criminal Procedure Code again.

Pandit Thakur Das Bhargava (Gurgaon): Thank you very much for giving me an opportunity to speak on this Bill. I am glad Acharya Kripalani has preceded me and he has said many things which I fully endorse. As you are aware I have given notice of three amendments. The last of them reads thus:

> "That the consideration of the Bill as reported by the Joint Committee be adjourned till such time as the matter of the appointment of the Law Commission is decided by the Government and if the decision is in the affirmative till such time as the final report of the law Commission is presented to the House."

Now, I believe that it is not the case of the Government that we pass this Bill with the idea that a new heaven on earth will emerge as a consequence. It is not anybody's case that the mere passing of this Bill or making amendments to the Criminal Procedure Code would bring about that state of things which we all want to be brought about. After all, as has been admitted by the hon. Home Minister and which has been sufficiently pointed out by many Members of this House, the truth is that unless and until the police, the lawyers and the general public also change their notions and change their angle of vision, the desired reforms are not to be ushered in this country. It is quite true that after all, this kind of procedure is only for a certain purpose, and this procedure cannot change the substantive law, and

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unless and until the substantive law is changed, all those good things cannot be brought about. This procedure is only meant to see that the sustantive law is implemented.

In this connection, I may say that even the hon. Home Minister himself admitted, and rightly, that unless the Evidence Act and the Indian Penal Code and other allied laws are changed,....

Dr. Katju: I never said.

Pandit Thakur Das Bhargava: Last time.

Dr. Katju: Not at all.

An Hon. Member: He forgot.

Dr. Lanka Sundaram: A very convenient memory!

Dr. Katju: The Penal Code has nothing to do with this matter.

Pandit Thakur Das Bhargava: The hon. Minister's view is that, as a matter of fact, this amendment of the Criminal Procedure Code will effect such changes in the House that what is desired will be brought about. If this is so, I am very much pained to hear from him that he did not say so.

Dr. Katju: I never said anything. Why should you put in my mouth a thing which I never said? The object of the Criminal Procedure Code is to ensure the speedy criminal trial. That is what I said over and over again. A speedy, just and fair and proper trial in a criminal matter—that is what I said.

Pandit Thakur Das Bhargava: Even if he did not say that, I am sure he will admit the truth of what I am saying. As a matter of fact, if there is any person in this House who thinks that the amendment of the Criminal Procedure Code alone will bring about such results as you all wish to see, he is very much mistaken. He has not got the imagination to see what is wanted. My submission is that, as I said, last time when I spoke on this Bill, if you want to change this law, you are mistaken in thinking that any good result will come. After all, it is the judiciary, it is the police, it is the lawyers and the public in general who are responsible for this delay, for this dilatoriness, for this untruth, for this perjury and all such things. If this procedure is changed in a sessions trial or a summons case, will there be less of perjury in this country. But how can a change in the Criminal Procedure Code bring about less of prejury—I am yet to see.

[SHRIMATI KHONGMEN *in the Chair*]

Shri B. S. Murthy (Eluru): Make it a police *raj*.

Pandit Thakur Das Bhargava: So far as the provisions of this Bill go, even a cursory perusal of the provisions of the new amending Bill will show that the change effected by the Joint Committee is revolutionary. In some cases, the entire thing is so changed that it cannot be recognised and the original proposal of the Home Minister has been very substantially modified. When the original Bill was sent to the country, the main proposal of the Home Minister was that so far as the committal proceedings are concerned, they ought to be scrapped. What happened in the Select Committee? The Select Committee wants to maintain those proceedings, and want to modify those proceedings, and they have evolved a new procedure. They say that the accused person must be there, he must be committed by the commitment court, evidence should be taken and witnesses must come. But the witnesses must be only examined in chief. They must come, they must stand, they must state what the prosecution wants them to state, and then be silent. In a court of law, when an accused is there, and he expects justice from a court, which is the repository of all justice, an accused person should stand mute and should not be able to put a single question! This is a thing which I do not think any lawyer would like to see enacted in this country. The whole thing is changed. Nobody was asked to give his opinion on a Bill like this, on the committal stage like this—that the accused is there with no tongue in his mouth, and the court is there, without any powers, as the powers under section 540 have also been taken away, from the commitment courts. If the commitment courts want that any person be called in evidence, even in the interests of justice that court has got no power now to call any witness? Is it the kind of justice that you want in this country? I supported the hon. Minister then that the commitment stage should be dispensed with. I am of the same opinion. I wish that the original proposal of Dr. Katju should have been accepted by the Select Committee, and the commitment stage should have been scrapped. If he wants to see there is no delay, why does he agree to such a modification of his original proposal? I think that if the hon. Home Minister had written a Minute of Dissent, on this matter, the House would have been with me, but the hon. Minister took very kindly to the Select Committee and the Select Committee did the whole thing very smoothly it has been said. What is this smoothness, I do not understand. I wanted this matter should be well discussed in the Select Committee. When the Bill was originally before the House I submitted that we did not want a Joint Committee. I wanted a Committee of this House so that Members of this House could sit at a table and thrash the whole thing. What happens at a Joint Committee. Sixteen Members from the other House come to sit with the 33 members of this House. They do not know each other; they do not know the views of each other. In that atmosphere of 49 people nothing is thrashed out. I submitted then and I submit now that in measures of this kind we should have a Committee of this House where we can thrash out things rightly.

I am very sorry to say that on many of the matters the Select Committee did not bestow proper attention. I know what I am saying; I know that many of my hon. friends may take it ill, but this is my humble opinion. In fact they have been too soft and too smooth and they have not worked as they ought to have. Yesterday it was stated by the hon. the Home Minister that so many lawyers, eminent lawyers, from both the Houses were on the Committee and therefore this report of the Select Committee is sacrosanct. Previous to that the entire country had been asked to give their opinion and 207 opinions were received and certain changes were made in the Criminal Procedure Code.

So, I make no apology in saying that in many matters I do not agree with the Select Committee. I say it with due deference and in all humility that some of the provisions made by the Select Committee are absolutely wrong and they cannot stand scrutiny.

Shri Lokenath Mishra: For instance?

Pandit Thakur Das Bhargava: I can give many instances, not one. I have already given you one instance. So far as the commitment stage is concerned, it is neither fish nor foul.

Acharya Kripalani: It is not even *dal bhat!*

Pandit Thakur Das Bhargava: In this matter I am on strong ground. The hon. the Home Minister himself was with me. He suggested there should be no commitment. I only want that he should stick to it. Either have full commitment. I can understand that position, because the accused is fully informed of what the case is. He gets better opportunity to defend himself. But at the same time, as remarked by the hon. Minister then, and even yesterday, he wants speed. Speed is the essence of the whole measure. If you allow a sessions trial to begin after seven months of the occurrence of a murder or any serious offence, the sympathy goes with the accused. It is perfectly true. The connection

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between the offence and the punishment is not seen. The hon. Minister is perfectly right. I fully admire his noble indignation at the delays of law. But if you really want to eliminate delay, why do you again bring in the same commitment and all the evils that follow it. If the trial does not take place for months together. Why? Because at the commitment stage so much time is taken. So, either have commitment, or do not have commitment. There is no third course open. It is entirely wrong to have a middle course, to have part commitment, and part not commitment.

As a matter of fact a state of things has been brought about that these two motions appearing in my name which appear to be dilatory in nature, have been deliberately given by me. I do not want this Bill should be enacted into law, and this provision about commitment should be the law of my country. I am ashamed of these provisions of law. I do not want to see that when a witness come in the box, before a first class Magistrate, his hands should be tied that he should have no power to do anything for the accused. And even in a case where the witness did not see the event, even then the accused must keep his mouth shut and he cannot put a single question to the witness in cross-examination. This is the present provision. How does it make for speed? Thus witnesses for the actual commission may not be forthcoming at that very time and it will be in the interest of the Police to see that those witnesses are not found and do not appear at the commitment stage.

Then the provision is that in cases where statements have been recorded under Section 164, witnesses may not be examined at that stage,—which means practically that a clever police officer will take some witness to a magistrate in the absence of the accused and then get him examined under Section 164. Those witnesses will not be allowed to be examined in a Court. This is nothing but travesty of justice. It is not commitment at all; it is something else.

I am an as anxious as the hon. the Home Minister to see that trials are speeded up, but at the same time I cannot agree that justice may be sacrificed in this manner at the altar of speed. This is one example.

I am as anxious as the hon. the other example. At the consideration stage I humbly submitted for the consideration of the hon. the Home Minister that he may not change Section 162. Yesterday he was kind enough to tell us that he considered over all the matters which were discussed in the House and he took pride in the fact that Section 162, or at least the principles of it, were there. I submitted then and I am sorry I have to repeat, that the hon. the Home Minister's approach was quite correct. He did not want to do anything against the accused. I feel and I believe this is so even now. I cannot for a moment think that Dr. Katju can go against the interest of the accused and not allow him full opportunity to defend himself. He gave a kind of assurance to me at that time that the provisions of Section 162 will probably be kept intact. He even went further and said those provisions will not be used for corroborative purposes. But what do I find? I find that Section 162 of the Criminal Procedure Code, which is the bulwark of all accused has been substantially modified. May I submit for his consideration that so far as Section 162 is concerned, there are two modifications that have been made. Under the provisions of Section 162 the accused is entitled not only to the copies of the statements which have been recorded by the Police under Section 161(3) but also to such other statements as are not to be found under section 161(3) but are to be found in other parts of the diary. It is in the present law.

Now, Sir, so far as this provision is concerned (Section 162) it was originally sought to be omitted. If that were allowed to happen, it would have meant disastrous consequences. I am grateful to the hon. the Home Minister that he has partially restored it. But at the same time, I think that it should be wholly restored. Now, section 162(1) reads:

> "No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:
>
> Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. . ."

The corresponding amended provision reads as follows. Under clause 23, we have got a provision...'the officer-in-charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) and of the first information report recorded under section 154 and of all other documents or relevant extracts thereof... ". The only copy which would be given under clause 23 is in regard to the statements recorded under section 164(3). A copy of the other statement will not be supplied to him. Even if the Home Minister is there all the time, he is not going to be convinced. I am speaking only to convince you. Clever sub-inspectors do not record the most important things under section 161(3). They record these things in a perfunctory manner, not as the statements of A or B but they write like this: हमें पता लगा है कि फलां शख्स ने ऐसा किया और हमें पता लगा है कि फलां शख्स ने ऐसा कहा । This statement is attributed to that man and this becomes a statement under the provisions of Section 162. This is the very deprivation of the right. If you want to do justice and really mean that he should know all facts, do not take away one of the most important rights.

Then, again I submitted last time—I repeat it with all humility before this House because many Members have not got that experience which is only the share of a practising Member of this House—that they should know that so far as the sub-inspectors are concerned, they do not rightly record statements of these persons. In many cases I have seen Superintendents of Police and District Magistrates saying: 'the police examined me but I do not know whether they wrote our statement'. Some say that they were questioned but nothing was written in their presence. They go to their house and record whatever they want. Any statement made to the police is not used for corroborative purposes. I wanted and still want to submit very humbly that so far as these statements are concerned, they are the most valuable pieces of evidence; in a criminal case the first statement of the witness is of the utmost value if it is rightly recorded. Subsequently, after some pressure is brought the witnesses vary their statements. Section 161(3) reads: 'The police officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so he shall make a separate record of

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the statement of each such person whose statement he records..." In the first instance there is no obligation on the police officer to record the statement; it is clearly wrong. There should be an obligation. If you want to prove that a particular witness is a bad witness and whatever he says now, he did not say previously, his statement should be taken down and there should be an obligation on every police officer to record the statement of every witness, at least eye witnesses. If they are not recorded, after two or three months we cannot know what the real statement was. I submitted on the last occasion that some steps should be taken to see that there is the obligation on every police officer at least to record the statements of the eye witnesses and other witnesses also.

Then again it says that he shall make a separate record. This is most unusual and scandalous. There is the police *zimni* and it has not got printed pages. You write a statement on a loose paper and you can at any time substitute the paper. What happened in Sardar Bhagat Singh's case? Even the *zimni* was entirely changed. As practising lawyers, we know in a considerable number of cases the statements are substituted afterwards; *zimnis* are substituted, they are not written on that day. Even a very clever sub-inspector writes the entire set of *zimnis* sitting at the house after several days. Do we want to play with the lives of the people in the year 1954? We should not have a provision like this. The *zimnis* should be so prepared and the statements should be so prepared that subsequently they could not be sustituted. I made this humble request then and I repeat it. If you want that speedy justice should be done you must also see that right justice is done and that innocent persons are not hauled up or convicted.

The hon. Home Minister has got a different experience from what we have got. I know of some cases in which absolutely innocent persons were hanged by the Court of law. It is not so rare as the House is apt to think. I know of many cases in which this has been done. But, at the same time, I know of a much more and larger number of cases in which the really guitly persons escaped. We do want that innocent persons should not be hanged or should not even be troubled. But I do say that it is absolutely necessary to change this 161(3).

If a speech is made in this House, the department of the hon. Home Minister does not care what any hon. Member has said. This suggestion was not even before the Select Committee. Does it follow whatever suggestions we give are not even considered by the Select Committee. I put in many suggestions for the consideration of the Select Committee. What is the use of our making suggestions here if in the Select Committee, hon. Minister's department does not take these things into consideration and does not place them before the Select Committee. They should be considered as amendments on behalf of the Members who are speaking here. They should have been gone into and considered. I am very sorry to say that these matters were not considered.

Shri S. S. More: Only a bare summary of the speeches made here was supplied to us which gave us no clear idea. (*Interruptions*). I am speaking the fact.

Pandit Thakur Das Bhargava: I submit that this right of the accused has been taken away as his right to get copies of statements appearing in any place other than under section 161(3) has practically been taken away. I do not think that this could have been the intention of the hon. Home Minister or of the Select Committee and I very respectfully beg to request the hon. Home Minister kindly to see that these provisions are restored. It appears that in the previous section—in clause 22 of the

Bill—the words are the same as in section 162. But in the operative part of section 23 these words have not been repeated with the result that he will not be entitled to get copies of such statements which do not come under section 161(3). The only change I want to make in respect of this matter is that the words given in clause 22 of this amended Bill may be included in clause 23.

There is another aspect of the case. Section 22 has been substantially modified in another aspect. Not only the accused will have the right to say that a witness who is making a statement contrary to the one which he made to the police and to contradict him by his previous statement but the prosecution also has now been given the right and this right was explained yesterday by the hon. Home Minister. If a witness becomes hostile, then, with the permission of the Court, this right can be exercised. May I humbly submit for the consideration of the hon. Home Minister that the present law has been very substantially changed so far as the interpretation of section 154 of the Indian Evidence Act is concerned. Previously the law was that if the prosecution asked for permission and was given permission, the witness was practically, as is known in the law, declared hostile. Now, so far as the declaration of hostility is concerned it is nowhere provided, in the Evidence Act or anywhere else. Only, it is a practice. It was treated as such, and if the prosecution witness turned hostile it really meant that the prosecution was unable to rely on the witness or use the evidence of that witness because he was hostile. Now this is not so. So far as the present interpretation of law is concerned, so far as the rulings are concerned, the evidence of a witness who is declared hostile or against whom section 154 of the Evidence Act was used, his evidence cannot be said to be of no effect. Under the present law as interpreted by Court both the prosecution and the defence may rely upon the statement of that person.

If, therefore, this provision is made and the right of contradiction is given to the prosecution, then it will again be detracting from the rights of the accused. It may be used in such a manner, in such a subtle manner, that nobody may be able to see what and how mischief may be done by the police while recording statements under section 161(3). After all, when a statement is recorded, something is put in the mouth of the witness and ultimately if the witness who never made the statement is confronted with a statement of that nature and if the Court comes to the conclusion that this man as a matter of fact made the statement, then what will be the result? The result will be miscarriage of justice. This law has been in existence for a long time and I submit that this new right should not have been conferred on the prosecution. This is a right which is sure to be abused. Therefore, in both these respects I would beg of the House to see that the original section 162 is restored to its proper place and is not disturbed.

I know that section 162 is perhaps the greatest slur on the police department. The hon. the Home Minister said that if we readily pass this Bill then the change might come. My submission is that in England, America and other countries the word of a police officer that the accused confessed before him is sufficient to send the accused to prison. Their words are respected. But here even if a statement is made before an Inspector-General or Superintendent of Police or any other officer the statement is irrelevant, the confession is irrelevant and cannot be used in evidence. This we have done rightly and deliberately and we want to continue it unless and until a new climate of truth and justice prevails in the country.

To tamper with section 162 is to injure the accused in a very vital matter, and I would respectfully beg of the House to restore section 162 to its previous rigour and arm the

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accused with all the rights that this section 162 gives.

I do not want to repeat, but I cannot desist from repeating because the hon. the Home Minister was not here when I was speaking on this point. I would request him humbly to kindly see that the statements under section 161(3) are rightly recorded—though he cannot do that; I know that because the sub-inspector will do it at his own will, but it will at least place an obligation on him to record the statements of the eye-witnesses at least, if not of others though it is better if the statements of the others are also recorded—and at the same time to see that the statements are not recorded on loose papers which can be substituted at will. He will take it from me, a practising lawyer for the last forty-six years that in many cases such statements are substituted and there is no power with the accused to prove that the statements have been substituted. It can be done this way, namely if you give a diary book which has got printed pages and you ask them to record the statements on these printed pages only. In this way even this can be brought about. Some time ago in PEPSU a great complaint was made—in Punjab we are a bit better—but in PEPSU the practice is quite different and it is very easy to substitute the statements of witnesses afterwards. It is nobody's case, no Member in this House—and much less the hon. the Home Minister—wants it, that a statement may be allowed to be substituted. I would therefore beg the hon. the Home Minister, when we are all agreed, that steps should be taken to see that this substitution does not take place.

I started by saying that in my humble opinion we will be advised in not proceeding with this Bill at this stage. I maintain that the Criminal Procedure Code, the Evidence Act, the Penal Code and many other laws are so interwoven and so vitally connected with one another and form part of one integrated whole that we cannot look at one as different and isolated from the other. If it is true that a Law Commission is going to be appointed—I cannot vouch for the statement, but I believe a Resolution in this House is also coming on the 19th, and perhaps our Working Committee also had made a suggestion to that effect, and it is likely that the hon. the Home Minister will appoint a Commission—if that Commission is going to be appointed, nothing will be lost by postponing the consideration of this Bill till such time as the Law Commission has given its opinion on all the relevant matters and suggested many things to us.

Last time when I suggested all this it was a part of the game; I cannot isolate the Criminal Procedure Code from the rest of the laws as also from many other matters which are essential for good and speedy justice. Last time it was mentioned and now I am submitting that unless you change the rules of promotion for the police, unless you change the mentality of Magistrates, unless you bring about complete separation of the judiciary from the executive and many other reforms are done, it is impossible to have speedy justice or good justice. To secure that, last time I submitted to the hon. the Home Minister about sections 124A and 153A and many other sections which were there before the Second Constitutional Amendment Act; these sections were held to be *ultra vires* by several High Courts and the Supreme Court. Now the law has not been adapted so far. It is absolutely necessary that the law should be adapted and we know where we stand. Unless we know that, unless that law is changed, how can we have all this procedure?

There is a provision here. So far as defamation is concerned a new provision has been made. In so far as provisions relating to defamation are concerned the proposal is that there should be no commitment; directly one can approach the Sessions Judge without any commitment stage. And then the defamation of every public servant is there—I will come subsequently to this aspect of the matter when I consider the clauses. But at the same time, as I was submitting, the hon. the Home Minister is not averse to seeing that the commitment stage does not exist and cases are taken straight to the Sessions Court. I am clearly of the view that the commitment stage is absolutely unnecessary and dilatory and the provisions that we have made in regard to commitment are exceptionally wrong and ugly. In Punjab in 1948 we tried to dispense with this commitment stage and for a long time the cases were sent direct to Courts without a commitment to the Sessions Court. This experiment was tried, and I submitted this last time also. I do not know if the hon. the Home Minister's Department have called for any report from the Punjab Government if the system worked well. But I know that in two cases in this Bill also in which hon. the Home Minister has agreed with the Joint Select Committee in which there can be a direct approach to the Sessions Court. In the defamation cases the provision is that the case may be taken direct to the Sessions Judge. There will be no commitment stage—as also in certain cases in which relating to bribery etc., etc., as soon as there is an approver no witnesses will be examined and straight the case will go to the Sessions Court. I must submit that so far as the cases of bribery go, so far as the cases of defamation go, I do not undervalue them or their importance from the Government point of view or from the Public point of view, but I maintain that there are much more serious cases, murder cases, rape cases, robbery cases etc., which are equally serious, perhaps much more serious. Why do they want this differentiation, discrimination, in regard to these cases? I am as anxious—and the Government should be as anxious—that the liberty of every person should be maintained, there should be no discrimination at all. I am anxious that the public servant should not be defamed. I am as anxious as any other person. If they are unnecessarily defamed, the entire structure falls to the ground and no person can do his duty rightly. But, at the same time, I do not want that the psychological effect of a prosecution through the Public Prosecutor should be such that we start with the presumption that the Government has accepted *prima facie* the story of the complainant in a defamation case. This is again discrimination.

And whatever Shri Kripalani said, 90 per cent. of that is so clearly true that everyone should bow his head and accept what he said. In the present circumstances we find that there has been so much of corruption in this country, so much of these crimes which relate to greed etc., that we are rather ashamed that after independence our character in this respect has deteriorated. We know in high circles of many scandals. The Bhakhra Dam scandal is the latest one and many others. But these are bound to happen in a vast country like ours. As a matter of fact, our vision should not be distorted from a consideration that this has happened and that has happened. What I do maintain is it is much better to keep the law equally for all as it is at present. I cannot understand why there should be differentiation in regard to this matter. We had discussions previously also on this point.

Now, it so happens that in England, in America, in democratically governed countries it is the law which is the same for all, what is called the reign of law. But in France and other places where differentiations were made, there are different laws for the officers, different laws for the public servants and different laws for other people, but in our courts of law, in civil cases the Government is the plaintiff and a private man is the defendant, or a private man is the plaintiff and the Government is the defendant and

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the law has its course as if there were two parties. In criminal cases also, what do we find? The Government is one party and the other man is the other party. Government collects evidence, and then brings it before the Court, through the Public Prosecutor in warrant cases and in sessions cases. If that course is followed, I have no objection. But if you allow favoured classes to go another way and take the case specially to the Sessions Judge, allow the Public Prosecutor to appear specially in this case and not in other cases, I am very sorry I cannot support a provision of that kind.

I know so far as Rajpramukhs, Governors, the Vice-President and the President are concerned, we have got the highest respect for them, and any person speaking in a derogatory manner is bound to provoke the ire and indignation of every right-thinking person. And similarly in regard to Ministers, we know our Ministers. If they are ridiculed, vilified unnecessarily, we feel it. Even if a wrong word is said to Dr. Katju we feel it here. But, at the same time, it is very necessary that the Ministers and all the public servants should be criticised, and criticised well. We all criticise them. I criticise them. I have the highest respect for them, but all the same I criticise them, not with any bad motive. If a Minister cannot be criticised, if a police officer cannot be criticised, if a patwari cannot be criticised, I do not know what we are coming to.

Yesterday, the Home Minister said that there would be very few cases against the patwaris and sub-inspectors. I know how patwaris are dealt with. If a sub-inspector is armed with the power of the law and Government decides *ex parte* that he is to be protected and the Public Prosecutor is to launch the case, the case goes with a certain bias in favour of the person bringing the case. If you are convinced, if the evidence that you have taken is so clear that a certain person has been vilified wrongly, give him money. He will go and defend and win the case. But it is not right that you say that you will give him the benefit of the Public Prosecutor and take the case to the Sessions Court.

Dr. Lanka Sundaram: The resources of the State.

Pandit Thakur Das Bhargava: The Press people will kindly excuse me for what I am going to say now. I know that the Press people went to the hon. Home Minister and gave their evidence and they made this proposal which has been accepted by the hon. Home Minister.

Dr. Lanka Sundaram: No, no.

Pandit Thakur Das Bhargava: Please excuse me. I have seen the notes. They said we do not want the police.

Dr. Katju: Who said that?

Pandit Thakur Das Bhargava: The Press people. This is what fell from the mouth of the hon. Home Minister.

Dr. Katju: Yes, yes. That is all right. When they gave evidence before the Select Committee, they said that they would rather prefer to have the case either in the High Court or in the Sessions Court.

Shri S. S. More: No, Sir.

Dr. Katju: Very well, I withdraw that. In the High Court. That would have discrimination on a tremendous scale.

Shri S. S. More: They were insistent about section 194.

Pandit Thakur Das Bhargava: What I was submitting was that the Press people are not the last word on the subject.

Dr. Katju: They are not.

Pandit Thakur Das Bhargava: The liberties of the Press are based on the liberties of the people and it is the representatives of the people who have to express the final word, and not the pressmen. It suits the hon. Home Minister to accept their evidence or to accept what they say.

Dr. Lanka Sundaram: He has not accepted.

Pandit Thakur Das Bhargava: It does not suit me. So far as the Press laws are concerned, so far as the Press incitement law is concerned, the House remembers that we left the entire Press behind and we fought for the liberty of the subject in a much more radical way than any pressman did. And today, I, as a representative of the people say that if the pressmen are so soft that they do not want to protect their own liberties....

Shri S. S. More: So yielding.

Pandit Thakur Das Bhargava: ... they have no right to take away the liberties of the people of India. I say that so far as these pressmen are concerned, their liberties are the same as our liberties, and they should not assume to themselves the role of people who feel injured by this section or that section. May I humbly know if this section when enacted into law will not include me or Mr. More? I may except myself. Will it not include Mr. More?

Shri S. S. More: I shall be the first victim.

Pandit Thakur Das Bhargava: Therefore, my submission is it is a question of the rights and liberties of the people of this country, and not a question wherein the Press people are specially concerned. I have read some portions of the Press Commission's report, and I am sorry to say that in certain matters—legal matters—they have erred and erred grievously, because they did not understand the legal implications of what they were saying in the report. I am sorry to say this, but at the same time I maintain that the hon. Minister's statement yesterday that the Press people seem to be satisfied does not take us anywhere. The hon. Home Minister has to satisfy the members of this House as to whether it is consistent with democracy, whether it is consistent with justice, whether it is consistent with other canons which we... The hon. Minister wants to say something?

Dr. Katju: I should like to say just one word. The hon. Member has been speaking in very vehement language. The original proposal in the Bill was that the offence was to be cognizable and when the police sent up a charge-sheet, that charge-sheet would go straight to the Sessions Judge.

Shri S. S. More: Like an arrow.

Dr. Katju: That was the original proposal, and today the proposal is that instead of the offence being made cognizable and the police making a charge-sheet, the charge-sheet would be preferred by the Public Prosecutor with the sanction of the Government, and it will go to the Sessions Court. So far as the venue of the trial is concerned, there is no change whatsoever in the Bill as it was originally brought and in the proposal as it now stands and approved by the Joint Select Committee. I cannot understand three-fourths of what my hon. friend has been saying.

Pandit Thakur Das Bhargava: The hon. Minister does not remember that even at that stage I raised the objection. I do not want the Sessions Judge. I want an ordinary Magistrate.

Dr. Katju: Well and good. That is a different matter.

Pandit Thakur Das Bhargava: That is what I submitted. That is what I am submitting now. Well, if in a rape case or any case of a very serious nature a Magistrate of the first class can do justice, why cannot a Magistrate of the first class do justice in this case?

Dr. Katju: I share with the Press people the desirability in the public interest that this matter should be

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investigated in the very first instance by the Sessions Judge, because all Magistrates, according to my learned friends there, are under the thumb of the police and the executive machinery, and by God's grace, only the Sessions Judge enjoys the completest impartiality, integrity, independence and fairness; and I therefore, say, let the trial be by him.

Pandit Thakur Das Bhargava: If the hon. Minister is so very impressed by the fact that the Members of the House think that only Sessions Judges are having liberty and freedom, why does he take all these cases to a Magistrate of the first class?

Dr. Katju: Have you no faith in them? (*Interruptions*).

Pandit Thakur Das Bhargava: As for the magistracy, I have full faith in my brethren. Even if they are wrong today, they will be right tomorrow. I cannot possibly think that all the Magistrates are so....

Dr. Katju: You have said so five hundred times today in your speech.

Pandit Thakur Das Bhargava: Have I said also this that the hon. Minister cannot right them? Have I said that the hon. Minister is absolutely impotent in doing this? (*Interruptions*).

Mr. Chairman: Order, order. Let the hon. Member have his final say.

Pandit Thakur Das Bhargava: My entire claim has been, and is, that the hon. Home Minister is competent to bring wonders to this land, and I have got faith in him. If he has got no faith in himself, I cannot help him. I am submitting that so far as this law is concerned, and so far as this Procedure Code is concerned, it cannot bring heavens in India. If you want to change the entire law, if you want to have laws according to the genius of the people, if you want to have justice, you will have to amend your Evidence Act, you will have to amend your Penal Code, and many other laws. To this, the hon. Home Minister does not seem agreeable. This is the real difficulty. He is in haste, I do not know for what. I know that he has got indignation against the present defects, and I share that with him, but I further want that if you really want to bring about a change,—a change will not be brought about by speeding up with this Bill—it is but right that he should appoint a Law Commission and wait; at the same time, he should see that the Law Commission makes a report, and all the important amendments are made at one and the same time.

Dr. Katju: It will take ten years.

Pandit Thakur Das Bhargava: If the hon. Home Minister thinks that really he cannot do anything before ten years, he is perfectly entitled to think so. I do not think so. I have got much more faith, as I have submitted, in the hon. Minister. If he takes it into his head to see that the Law Commission is appointed, and that it does work, I am sure it will do its work. I congratulate the hon. Minister for being able enough even to have brought in a measure of this kind itself.

But at the same time, I cannot understand why he is fighting shy of a Law Commission, and the changes that they may recommend. Now, it is not my case alone; we know that persons in high authority, Supreme Court Judges, High Court Judges, and many Members of this House as also persons outside, are of the same view, and they have said that unless a Law Commission is appointed, nothing can be done. I am bound to say that unless a Law Commission is appointed, and these very provisions of law are considered dispassionately along with the other laws, by them, we will not be doing the right thing by passing this law, without touching other laws. This is my humble submission.

So far as this amendment is concerned, I will beg of the hon. Minister to kindly look at it dispassionately, and accept it. As regards the other amendments, namely amendments Nos. 30 and 31 appearing on the agenda, it appears that Shri Sinhasan Singh proposed an amendment, when the Bill was being referred to the Select Committee, and the hon. Minister accepted it; and that amendment was to the effect that other provisions of the Criminal Procedure Code also should be got amended, and the Select Committee should be entitled to go into them. At that time, I also made a very fervent appeal to the hon. Home Minister to agree to it, and he very kindly agreed to it. He said that everything will be allowed to be seen in the Joint Select Committee. But now in para. 55 of their report, they have made a recommendation that since those things require fresh opinion, they have not touched them; they were so valuable and so important that they felt that they should be sent out to the country for eliciting opinion thereon. So far as the order of the House was concerned, the Joint Committee should have gone into them and made a report, but they have seen it fit not to have gone into them and made a report. I would submit that it is but necessary that the entire Code should be got amended at one time, because one provision is intimately connected with another. I have, therefore submitted that the Bill be recommitted to the Joint Committee, with instructions to report on amendments which the Joint Committee failed to consider—as some of these amendments, according to them, raised important issues, and opportunities for eliciting public opinion thereon had not yet been given—in spite of the instructions of the House to that Committee to report on such amendments.

Similarly, there is a third amendment which says that the Bill be circulated for the purpose of eliciting opinion thereon, because the Bill has been changed in many respects. The previous Bill, *i.e.* the original Bill was considered by the country, but the present Bill, which has changed in many respects, was never considered by the country. For instance, there is a change about the commitment proceedings, a change about the procedure and many other important things. It is necessary that the country should be able to express its opinion about those chaste things. The general rule is that whenever essential and vital changes are effected, the Select Committee themselves say that the Bill should be recirculated, or that it may be sent to the country for expressing its opinion thereon. But herein, the Select Committee have not been pleased to say anything this way or that way. Probably, they did not consider this as an important thing. I very humbly submit for the consideration of the House that the matter is too important to be ignored. The Bill as it has emerged from the Select Committee is such that it is almost a new Bill, a changed Bill, a Bill so thoroughly changed that its complexion is new, and we cannot recognise the old Bill. Therefore, it is necessary that the country should be afforded an opportunity for expressing its opinion on the present provisions. It is in this light that I have framed these three amendments, and I beg of the House to dispassionately consider them.

I am one who will not grudge to give credit to the hon. Home Minister for what he has done. On the contrary, I am overwhelmed by the fact that his intentions are the purest, and his motives the best. But my difficulty is that he is a topranking lawyer of a very high eminence, and our misfortune is that he has not practised much in the lower Courts, where we have practised. So, many things which we come to know, and which we fully appreciate, are not appreciated by him. It is, therefore, that I submitted that this matter should go again to the country, and the country should be allowed to express its opinion.

Now, coming to the provisions of the Bill...

Shri Raghubir Sahai: After one hour.

Pandit Thakur Das Bhargava: ...I must comment upon some of the provisions. I shall have occasion to go minutely into these provisions, when the clauses are considered, and therefore, I do not want to forestall what I have to say at that time. But at the same time, some of the provisions are so obviously.....

Mr. Chairman: May I remind the hon. Member that he has taken almost one hour by now? How much more time will he take?

Dr. Lanka Sundaram: Let him have his say.

Mr. Chairman: There are many Members who want to participate in this debate. So, I would like to know how much more time the hon. Member will take.

Pandit Thakur Das Bhargava: I know that many other Members are anxious to speak, and I do not want that I should encroach on their time.

Shri B. Das (Jajpur-Keonjhar): May I submit that he is one of the best lawyers of the House, and therefore, let him have his say, for the enlightenment of the House?

Mr. Chairman: I have no objection, if the House agrees.

Shri V. G. Deshpande: But he must finish by five.

4 P.M.

Pandit Thakur Das Bhargava: I am entirely in the hands of the Chair; if the Chair wants me to sit down, I will not speak another word.

Mr. Chairman: I just want to ascertain how much more time the hon. Member wants.

Pandit Thakur Das Bhargava: About an hour or so may be taken. There are so many provisions. I do not know whether the House will agree to that. But, I have said that I am entirely in the hands of the Chair. If the Chair wants me to sit down, I will sit down without a word. I do not want to go on when the Chair does not want to give me more time, though, as a matter of fact, so far as I am concerned, I am within my rights, on a Bill of this nature, to have more than one hour which is not sufficient. But, I do not want to stand on my rights also. If the hon. Members want me to sit down, I will certainly sit down.

Dr. Lanka Sundaram: Madam Chairman, it is obvious the House wants to listen to the hon. Member; he has a very important contribution to make, and I hope you will permit him to continue.

Shri V. G. Deshpande: On behalf of the House I want to make a submission.

Mr. Chairman: I just wanted to ascertain the wishes of the House.

Shri V. G. Deshpande: Because the House is desirous of listening to him, our time would be curtailed. I am making a representation on behalf of the House that the time for the debate should be enhanced in order to give him an opportunity. That can be done only if the time is increased.

Pandit Thakur Das Bhargava: I do not want any recommendations to be made by my fellow-Members; so far as I am concerned, I am entirely in the hands of the House. If the House wants that I should sit down, I shall do so as I will have other occasions to speak on the clauses.

Mr. Chairman: I think the sense of the House is that the hon. Member should continue. Let him continue.

Pandit Thakur Das Bhargava: I thank you very much for the decision. I also thank the House for so kindly agreeing to listen what I have to say.

I said, I am coming to the provisions of the Bill, the new Bill. Last time, when I spoke on this Bill, I brought to the notice of the hon. Home Minister that he should see that the rights of the accused, in so far as cross-examination is concerned, was not substantially curtailed. I am sorry to say that the rights have been to a certain extent curtailed.

One important matter which was touched yesterday by the hon. Home Minister was in regard to Honorary Magistrates. I beg to submit in all seriousness that we do want to avail of the services of people who are men of intergrity and honesty and who are incorruptible. There is no doubt about it. But, we cannot shake off our old prejudices against Honorary Magistrates and, I must submit for the information and consideration of the hon. Home Minister that he may defer this reform, if he considers it to be reform, to another ten years so that we may forget all that happened during the last regime. The Stipendiary Magistrates have proved much better. The Honorary Magistrates are either superannuated, and after retirement they are not able to work well, or, if they are otherwise, they are local people and have local prejudices and they must stick to their places also. Ultimately, it will not be in the interests of the nation at large, if you lose confidence in the decisions made by the Honorary Magistrate. I am voicing the feeling of most, I should say not only of cities but of all backward areas including the district from which I come. I know people have got no faith in Honorary Magistrates and I hope the hon. Home Minister would consider that the institution of Honorary Magistrates is not one which can be revived early. Moreover, this opens the flood-gates of nepotism. The Government can appoint this man and that man and he can be influenced politically. We want that nobody may be able to say subsequently that the Government has been using its political influence for that purpose. From all these viewpoints, I consider the time is not ripe for the appointment of Honorary Magistrates.

Shri S. S. More: Supposing the power is given to the High Court....

Shri R. K. Chaudhuri (Gauhati): Have you any objection?

Pandit Thakur Das Bhargava: Today the High Courts can only be consulted but their approval is not there.

Shri S. S. More: Supposing the power is given to the High Court?

Pandit Thakur Das Bhargava: If the modification comes, we shall see what happens.

Shri R. K. Chaudhuri: You are not against Honorary Magistrates?

Pandit Thakur Das Bhargava: I am not against Mr. Chaudhuri.

An Hon. Member: He is not against the system of Honorary Magistrates.

Pandit Thakur Das Bhargava: So far as the present climate of the country is concerned, I feel it is not yet time.

Shri R. K. Chaudhuri: Whether approved by the High Court or not?

Pandit Thakur Das Bhargava: Yes.

I have something to say about section 16 of the amended Bill. In regard to section 107, I submitted then, and I repeat it here with your permission, that it relates to the liberty of the subject and therefore it is in the nature of a preventive detention measure. The House has not realised this; otherwise, the House would have raised its voice against it. Now, for a good many years this provision has been there; it has worked well and there is no reason for a change. Why are you investing the First Class Magistrates with power to detain any person even if the threatened occurrence is not likely to take place within his jurisdiction? No case has been made out and no evidence has been produced before as to why we should change it.

Proceedings under section 117 will be conducted as a summons case. I

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think it is a very serious encroachment on the rights of the people, upon the liberties of the people to make this new provision. I want that even so far as 107 is concerned, it should be tried as a warrant case. It should not be tried as a summons case at all. Therefore, I think, the House would be well advised in giving serious consideration to this matter. It relates to the cherished liberties of the people of this country for which the House is very anxious.

I come to sections 145, 146 and 147. My humble submission is I am impressed by the argument given by the hon. Home Minister to the effect that the case will be decided speedily. But, I have got one very serious objection to changing section 145. At present, the person in possession is helped by the Court, and his possession is maintained. Now, under the provision in the Bill the property will be attached and the man will be sent to a civil court. I quite understand that the rights of the people are determined by the Civil Court in general. But, under section 147, those rights will be determined by the Criminal Court. There is no reason why the Criminal Courts should not be invested with powers to see that the right man is helped. We are making it more cumbrous and, at the same time, justice will not be given to the person who knocks at the doors of the Court. First of all, the property will be attached and the case will ultimately go to a Civil Court for decision. Now, it is a matter of two courts. Instead of one court which will be less costly it will now be two courts. I appreciate the desire of the hon. Home Minister; but, in its actual working, I am afraid, this will prove more expensive and more dilatory and more cumbersome. Therefore, I am not in favour of the amendment.

I have already made my submission in regard to sections 22 and 23 of the proposed Bill. I do not want to repeat what I have already said, though I cannot resist the temptation of saying again that the House will consider many times before it accepts any provision of this nature. The hon. Home Minister, in his anxiety to furnish the accused with all papers, has been pleased to amend sub-section (4). As soon as the man is brought before the Court, it will be enquired whether all these documents have been given to him. And, yet, I do not find any provision in this Bill to say that the copies must be given at least seven, ten or fifteen days before. There is no such provision. On the contrary, the words are:—

> "At the commencement of the inquiry or trial the Magistrate....."

Unless you make a provision to the effect that the papers should be given so many days before, it will not be right to call the accused before the Court. What happens if the copies are not given? When the provision is mandatory, the accused must be given the copies at least some ten days before the trial. How will he make use of them? The case will have to be adjourned instead of being speedily proceeded with. The Magistrate will adjourn the case and the witnesses who have come will have to go and come back again. Therefore, you must make the provision according to the Constitution. The law is that every accused person must be allowed to know as soon as possible of the nature of the accusation against him. I would, therefore like that the hon. Home Minister kindly agrees to a provision of this nature that as soon as possible copies will be given to the accused, in any case within less than 15 days before the enquiry begins in a sessions trial, at least ten days in a warrant case, and if not more at least a week before the summons case begins. Unless this provision is made my humble submission is that the accused will be prejudiced and at the same time there will be dialatoriness. I hope the hon. Minister who is so anxious for the interest of the accused will kindly agree to my suggestion and make a provision in the Bill to see that it is made obligatory on the police to give copies as soon as possible. I may just inform the hon. Minister that the old High Court of Lahore gave a ruling of this nature that long before the prosecution begins copies are to be given though according to the present section it is not the law. Now they are given only at the time; and there is application for transfer; the accused says he has not seen the records; he does not know what the copies contain and therefore the case may be transferred. This is a matter of tussle between the prosecution and the defence and this must be settled for all time. It is necessary that some minimum period is provided before which copies are given, for according to the Constitution, they must be given as soon as possible and in any case not later than the prescribed period.

I have already dealt with clause 25, though not fully, but to a certain extent. Now, in regard to clause 26 I have a submission to make. According to the present law, as soon as a complainant goes to court, he is examined and then if the court is satisfied *prima facie* with what he says, summons are issued. If the court is not satisfied; then they proceed under section 200 and he is asked to bring witnesses. After the witnesses are examined if the court comes to the conclusion that there is a *prima facie* case, then summons and warrants are issued. In the present provision under clause 26, it says that the complainant and the witnesses present will be examined as soon as the complaint is made and then there is further provision that the witnesses and the complainant will be asked to sign their statements. According to the present law if a person does not sign a statement—it is not obligatory on him—he cannot be prosecuted. I do not know why this change is going to be made. We have full faith in the court. If we start on the presumption that courts are also corrupt like the police, there is an end of the matter. The present provision is that the witnesses who are examined must sign the statements. Who will go with the complainant in that case? If they go with the complainant without summons etc., then the argument will be made that they are interested people and they go with the complainant every time. I sense this danger beforehand that in all cases, if defence witnesses are taken to court, the first point which the Public prosecutor will ask is: "Are you summoned through court"? and if he says: 'No', then his evidence goes away. If similar rules were allowed to be applied to these witnesses, I think it will cause miscarriage of justice by a provision of this nature also.

In regard to cases which are not reported by police in respect of sessions cases, the provision is that the present provisions will continue and there will be full commitment proceedings as before in private cases. I do not see why there should be distinction here. I want that there should be a Director of Public Prosecutions different from the person known today as a Public Prosecutor—he may not be a man of the police—and then every prosecution should go through his fingers. He should be able to sort out which is a true case and which case can succeed. The other cases he may not bring to the court. Similarly in private cases if the help of such person in charge is taken it would be helpful. In police cases there is the agency which collects evidences but in private cases there is no agency to collect evidences. At the same time, as so wisely said by the hon. Minister, so far as evidence is concerned, every person can assess and appreciate evidence and no expert is required to properly weigh the evidence. Therefore, if true evidence is to be given, a private person can summon his witnesses through a court and examine them. There is no reason why there should be another stage. So far as private complaints are concerned, they may go to the Director of Public Prosecutions; he may hear their evidence; make a calendar as in the sessions cases and proceed with

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them so that there may be no difference between the two and the time is not wasted. What happens in ordinary criminal cases, murder cases etc.? As soon as the occurrence takes place people rush to the police for help and have the information recorded. Now, in this case what will happen? The person will go to the police, the police will hear the case and ultimately when the police makes a report under 173 that the case is not worthy of being taken to the court, then alone the private person will come forward and go to the court to ask them to proceed with the case. The statements taken and the enquiries made by the police will not be allowed to go on record for the prosecution witnesses cannot be confronted by statements taken under section 162; legally they cannot be because they are not witnesses for the prosecution within the term as used under section 162. Therefore, my humble submission is, it is likely that in such cases the accused may be prejudiced and when I find that the hon. Minister has made in this Bill such provisions for appeal on behalf of private parties, I do not know how the accused will fare and how the accused will get away from the fangs of the prosecution. If even the police agency, the only agency in the country, in this case comes to the conclusion that it is a false case, then the private person is allowed to take the case to the court. If the court files it, even then an appeal is allowed, not an appeal as a matter of fact, but special leave to appeal. The present provision is that there should be special leave to appeal. I submitted some time back in relation to another Act that I am very much opposed to this sort of provision. Such provisions do not exist in any other civilised country and therefore, this provision is too much even for us.

Now, it was submitted in regard to 207A that ~~one~~ very great loophole is that the Magistrate is also made powerless to call any witness in the interest of justice. I would very humbly request the hon. Minister kindly to agree and see that the powers of the court in this respect are not taken away. They have the power to call any person before it to give evidence in the interest of justice. If the court is denied this power, we need not call it a court, but we may call it a 'police post office'.

Similarly, in regard to section 251 and other sections relating to procedure, it so happens that the present procedure is so substantially changed and the principles on which the original Code was built up are so thoroughly violated, that I am afraid it will be difficult to agree to many of the new provisions. Either have entirely new thing, or if you want to continue the old system, then continue to base your provisions on its principles. I am agreeable to change the whole system and have an entirely new system of law. You may change the entire system of procedure. You may change the entire system of evidence also. You may say that the Evidence Act does not bind you. But, so far as the question of proof is concerned, as long as you keep the definition of 'proof' in the Bill as it is, you cannot curtail these rights; you cannot tamper with it and you cannot play with it. Now, in this Procedure Code there is evidence enough to show that the provisions have been very roughly handled and the original principles on which the procedural sections were built have been ignored. I am very sorry to say this, but I think my statement is perfectly right. We did a wrong thing in changing the very principles of jurisprudence on the basis of which the present provisions are built.

I have to submit my views in regard to many other matters, but since I find many other Members are anxious to speak, I do not want to take any more time of the House except to submit a few points in regard to section 435 as also on some aspects relating to section 345. In my humble opinion, they also require the serious consideration of this House. We should not accept the new proposals that have been made by the Select Committee, on those sections.

As regards section 350, I think it is not right to allow the proceedings to continue and take away the right of the accused to demand a *de novo* trial. We legal practitioners know that in one court, if I am convinced that the judge is going in my favour I curtail cross-examination, and if that judge is changed and another comes in his place, I will not know whether he takes the same view as his predecessor. The new judge may not take the same view. I have a right to demand a fresh trial. If that right is taken away, I shall be prejudiced a great deal. I therefore think that the principle that all the witnesses in a criminal case should be heard by the man who ultimately decides the case is an unexceptionable principle and we should not depart from it, and it is not right to take away this right in this manner.

I do not want to proceed further. I have only to thank the House and the hon. Chairman who has been so indulgent to me to let me have my say in respect of some matters which I considered important.

Mr. Chairman: I will place the amendment before the House.

Shri S. S. More: The amendments have already been moved and placed before the House.

श्री वी० जी० देशपांडे : सभानेत्री महोदया, माननीय गृहमंत्री ने जो भारतीय दंड विधान प्रक्रिया संशोधन बिल सदन के सामने रखा है उसके सम्बन्ध में मैं समझता हूं कि अभी तक विरोधी पक्ष के और सरकारी पक्ष के लोगों ने भाषण देते समय एक विशेष दृष्टिकोण पर ध्यान नहीं दिया है। यह ठीक है कि अंग्रेजों ने इस देश पर बहुत अत्याचार किये लेकिन साथ ही यह भी मानना पड़ेगा कि उन्होंने कई अच्छी चीजें भी इस देश में कायम कीं और उन अच्छी चीजों में मैं समझता हूं कि ब्रिटिश न्याय पद्धति अंग्रेजों की हिन्दुस्तान को एक महान् देन थी और मैं ब्रिटिश न्याय पद्धति का स्वयं समर्थक हूं और इस दृष्टि से जो दंड प्रक्रिया संहिता है और जो उस न्याय पद्धति पर आधारित है, स्वागत योग्य है। ब्रिटिश न्याय पद्धति विश्व की एक बड़ी अच्छी पद्धति है, इसी के साथ साथ इस प्रक्रिया में बहुत सी बातें जो एक गुलाम देश को अपने कब्जे में रखने के लिये आवश्यक होती हैं वह चीजें उसमें लायी गयी हैं। आज जब हमारे गृह मंत्री इस दंड प्रक्रिया में संशोधन करने के हेतु बिल लाये हैं तो मुझे यह देख कर दुःख होता है कि इस दंड प्रक्रिया में ऐसे भाग जो कि इस देश के लोगों को दबाने के लिये बनाये गये थे उनको कायम रखा गया है होना तो यह चाहिये था कि अवांछनीय बातों को निकाल कर अच्छे तत्वों पर जिन पर यह दंड प्रक्रिया संहिता रखी हुई थी उन बातों को कायम रखते और साथ ही जनतांत्रिक भावना का उसमें समावेश होता क्योंकि जहां एक पक्षीय या दलों का राज्य होता है वहां व्यक्ति की स्वतंत्रता की रक्षा की ज्यादा आवश्यक्ता होती है और मेरा विचार है कि अंग्रेजों की न्याय पद्धति से भी ज्यादा आपको इस दंड प्रक्रिया का संशोधन करते वक्त जो अभियुक्त है उसकी स्वतंत्रता की तरफ ज्यादा ध्यान देना पड़ेगा क्योंकि हम सब जानते हैं कि यहां पर किस तरह से पुलिस के द्वारा दमन होता था और किस प्रकार लोगों को त्रास दिया जाता था। इसका मुझे स्वयं अनुभव है, मैं कोई क्रिमिनल लाइयर तो नहीं हूं और न ही क्रिमिनल हूं परन्तु अभियुक्त के नाते ब्रिटिश राज्य में और डा० काटजू के राज्य में बहुत दफा

[श्री वी० जी० देशपांडे]

एंक्यूज्ड की हालत में अदालत जाना पड़ा और यह मैं अपने अनुभव से कहता हूं ।

Shri S. S. More: We should not accept that view.

Shri V. G. Deshpande: I am acquainted with the Criminal Procedure Code as an accused if not as a lawyer.

Mr. Chairman: The hon. Member will avoid mentioning personal names. The hon. Minister may be addressed as the Home Minister.

श्री वी० जी० देशपांडे : हमारा तो अनुभव यही है कि पहले की अपेक्षा आज की स्थिति में कोई सुधार हुआ नहीं है बल्कि अपने अनुभव के अनुसार कह सकता हूं कि ब्रिटिश शासनकाल में जितना त्रास होता था उससे आज ज्यादा होता है । हमारे माननीय गृह मंत्री के हृदय में जो यह इच्छा है कि अभियुक्त को न्याय मिलने में ज्यादा समय नहीं लगना चाहिये और उसको न्याय अच्छा और स्पीडी मिलना चाहिये, मैं इससे पूरी तरह सहमत हूं । परन्तु जैसा अन्य माननीय सदस्यों ने बताया है और मैं स्वयं इसको अनुभव करता हूं कि यह जो न्याय मिलने में टाइम लगता है और उसके लिये एक मुद्दत लगती है तो इस देरी का कारण केवल प्रक्रिया का प्रोसीज्योर ही नहीं है, कई बातें प्रक्रिया में भी ऐसी हैं जिनके कारण न्याय मिलने में बिलम्ब लगता है, लेकिन इसके अलावा और भी कारण हैं और मेरा अनुभव इस सम्बन्ध में कुछ है और खास कर दिल्ली के बारे में है । सन् १९५२ की बात है जब यहां पार्लियामेंट चल रही थी तब पन्द्रह मई को जब मैं कैद किया गया तो मैं उस दिन एक अभियुक्त की हैसियत में था और मैं आपको बतलाऊं कि पन्द्रह मई को यहां पर गिरफ्तार होने के बाद दो महीने तक केस की हियरिंग शुरू नहीं हुई और जब जा कर मजिस्ट्रेट के सामने पहली हियरिंग हुई तो मैं ने अनुभव किया कि किसी भी प्रकार की सहानुभूति मजिस्ट्रेट के हृदय में नहीं थी । मेरे साथ में एक वृद्धा भी अभियुक्ता थी और उस वृद्धा को पुलिस वाले बीमारी की अवस्था में पकड़ कर ले आये थे । हम इधर उधर घूमते रहे कि किस मजिस्ट्रेट के सामने प्रोटेस्ट किया जाय और आखिर जब हमने मजिस्ट्रेट के सामने कहा कि यह स्त्री बीमार है इसको बेल दी जाय लेकिन अगर वह सम्भव न हो तो कम से कम इसको बेटर क्लास तो दिया जाय । इस पर मजिस्ट्रेट साहब फरमाते हैं कि यह मेरा काम नहीं है । जब हम लोग जेल में भेजे गये और जेल के डाक्टर ने रिपोर्ट दी कि इस औरत की हालत बहुत खराब है डाक्टर का सर्टीफिकेट आया तब यह सवाल पेश आया कि किस मजिस्ट्रेट के सामने इसको पेश करना है और इसका फैसला पन्द्रह दिन तक नहीं हुआ इसी चक्कर में एक महीना हो गया । फिर पहला मजिस्ट्रेट थक गया, दूसरा मजिस्ट्रेट उसकी जगह आया और दो महीने तक जब केस पेश नहीं हुआ तब हमने लाचार होकर मजिस्ट्रेट के सामने एक दरख्वास्त दी कि हमको बेल पर छोड़ा जाय । मजिस्ट्रेट ने इसको नहीं माना और रिजैक्ट कर दिया तब हम अपनी दरख्वास्त ले कर सेशन जज के पास गये और सेशन जज ने मुझे बेल पर छोड़ दिया और मैं आपको बतलाऊं कि जब मैं बेल पर छूट कर जेल के दरवाजे पर आया ही था कि डाक्टर काटजू के प्रीवेन्टिव डिटेंशन एक्ट के मातहत एक पुलिस अफसर वारंट के साथ जेल के दरवाजे पर मुझ पर तामील करने के लिये खड़ा था और फलस्वरूप मुझे फिर जेल के अन्दर सीधा ले जाया गया । दो महीने तक केस शुरू

भी नहीं हुआ और मैं समझता हूं कि इस प्रक्रिया में और प्रोसीज्योर में इसका कोई सम्बन्ध नहीं है। पहले तो होता यह है कि मजिस्ट्रेट के सामने जल्दी केस रखा ही नहीं जाता है और रखने के पश्चात् कोई डे टू डे हियरिंग तो होती नहीं अगली सुनवाई के लिये महीने और दो दो महीने की तारीख दी जाती है और कभी कभी तो देखने में आया है कि तीन तीन और चार चार महीने बाद पेशी की नौबत आती है। इस जनतंत्र के राज्य में मैं स्वयं चार महीने विदआउट ट्रायल जेल में रहा हूं और पंजाब हाईकोर्ट के सामने मैंने उसके लिये हैबस कॉरपस की एप्लीकेशन दी। मेरा कहना यह है कि प्रोसीज्योर आपकी कोई मदद नहीं कर सकता है जब तक कि आपका एडमिनिस्ट्रेशन अच्छी तरह न चले जब तक एडमिनिस्ट्रेशन में सुधार नहीं होगा तब तक हमारा जो ध्येय है वह पूरा नहीं हो पायेगा। मैं यह मानने को तैयार नहीं हूं कि पुलिस विभाग में जितने लोग काम करते हैं वे सब के सब बदमाश और भ्रष्ट हैं पुलिस विभाग में भी ऐसे लोग हैं जो ईमानदार हैं और अपना काम ठीक तरह अंजाम देते हैं। मैं यह भी मानने को तैयार नहीं हूं कि सरकार के बाकी सब डिपार्टमेंट तो अच्छे हैं, एक पुलिस डिपार्टमेंट खराब है। पुलिस विभाग में भी अच्छे लोग हैं, अब पुलिस विभाग का वायुमंडल खराब होने के लिये केवल पुलिस विभाग ही दोषी नहीं है बल्कि उसका कारण मैं समझता हूं देश में और पूरे एडमिनिस्ट्रेशन में फैला हुआ वह विषाक्त वायुमंडल है और मैं देखता हूं कि एक भ्रष्टाचार की बू उनमें पाई जाती है।

इसी के कारण ऊपर से नीचे तक अगर पुलिस कोई चीज करती है तो उस पर जुर्माना नहीं होता न उस के अधिकारियों को सजा होती है, और इसी के कारण मैं देखता हूं कि पुलिस विभाग पहले से अच्छा नहीं हुआ बल्कि पहले से बुरा ही हो रहा है। वह हिन्दुस्तानी हैं, हमारे भाई हैं, पढ़े लिखे हैं, पब्लिक सर्विस कमिशन के द्वारा चुने जा कर पुलिस के अधिकारी बनते हैं फिर भी हम हमेशा कहते रहे कि पुलिस विभाग आप का खराब है। आज नहीं बल्कि पहले से ही पुलिस विभाग बहुत खराब था। आज हमारे गृह मंत्री जो बड़े महान् व्यक्ति हैं, उन का नाम लेने की आज्ञा नहीं है, आज मंत्री हुए हैं, लेकिन वह जानते हैं कि हमारे गोखले साहब ने पुलिस विभाग के लिये क्या वर्णन किया है। जैसा उन्होंने कहा था उसी प्रकार आज भी पुलिस विभाग है। उन का कहना था कि वायुमंडल अच्छा नहीं है। मैं कहना चाहता हूं कि आज जो डिले हुआ करती है वह केवल जो आप की प्रक्रिया है, क्रिमिनल प्रोसीजर कोड है, उस के ही कारण नहीं होती है। बहुत से कारण हैं। मजिस्ट्रेट कम हैं और कम होने के पश्चात भी मजिस्ट्रेट को बहुत काम दिया जाता है। दिल्ली में भी बहुत काम उन को दे दिया जाता है। मैं यहां के बारे में जानता हूं कि क्योंकि दिल्ली में मुझे चार पांच दफा अभियुक्त होने का अवसर मिला है। बाकी प्रान्तों में भी रहा हूं, दिल्ली में रहा हूं, बिहार में रहा हूं, पंजाब में रहा हूं। सब जगह अभियुक्त रहने के पश्चात् मैं कह सकता हूं कि यह जो प्रक्रिया है उस के लिये मजिस्ट्रेटों को पूरा समय नहीं मिलता है। बम्बई में ६ महीने मुझे लगे हालांकि मैं सादा व्याख्यान देने का अभियुक्त था। इस से पूर्व मेरा न्याय नहीं हो सका। इस प्रकार की बातें होती हैं। इसी तरह से समरी ट्रायल का प्रोसीजर है, वारंट का प्रोसीजर है, इस के कारण समय ज्यादा लगता है यह मैं मानने के लिये तैयार नहीं हूं।

[श्री वी० जी० देशपांडे]

दूसरी बात, मैं देखता हूं कि न्याय ठीक हो इस के लिये हमें नई सूचनायें दी गई हैं। प्रक्रिया के विषय पर तो मैं बाद में आऊंगा। यहां आनरेरी मैजिस्ट्रेटों के बारे में जो बातें कही जाती हैं, जो आनरेरी मैजिस्ट्रेटों की नियुक्तियां की जाती हैं, उन के बारे में मैं यह बहुत स्पष्ट शब्दों में कहना चाहता हूं कि मैं यह मानने के लिये तैयार नहीं कि हिन्दुस्तान में ऐसे प्रामाणिक आदमी नहीं मिल सकते हैं जो सामान्य और अवैतनिक न्यायाधीश का काम कर सकें। हिन्दुस्तान में अवश्य ही इस प्रकार के न्यायी और निष्पक्ष व्यक्ति मिल सकते हैं, लेकिन मैं यह समझता हूं कि जिस प्रकार का जनतंत्र आज इस देश में चल रहा है और जो वायुमंडल आज हम देख रहे हैं उस में मुझ को डर है कि हम को ठीक आदमी नहीं मिल सकते हैं। पहले तो डिप्टी कमिश्नर और डिस्ट्रिक्ट मैजिस्ट्रेट्स को पार्टी देने वाले या उन की बटरिंग करने वाले व्यक्तियों को आनरेरी मैजिस्ट्रेट नियुक्त किया जाता है। Those who give parties to the Deputy Commissioners and District Magistrates will be appointed as hony. Magistrates.

जिन को इस प्रकार से अवैतनिक न्यायाधीश नियुक्त किया जायगा, जैसा कि मुझे डर है, उन की बात मैं नहीं कह रहा हूं लेकिन और जो ईमानदार और अनुभवी व्यक्ति नियुक्त होंगे वह अवश्य स्वतंत्र रूप से न्याय कर सकेंगे। जैसा न्यायशास्त्र में कहा गया है कि केवल न्याय करने से काम नहीं चलता है, यह देख भी पड़ना चाहिये कि न्याय किया जा रहा है। इस दृष्टि से आप को यह करना पड़ेगा कि इस प्रकार के लोगों को, जो कि अनुपयुक्त हों, उन को नियुक्त कर के अपने विरुद्ध प्रचार करवाने का अवसर न दें कि ऐसे अवैतनिक न्यायाधीश नियुक्त किये जा रहे हैं जो कि आप की दलगत राजनीति को चला रहे हैं। जब तक आप ऐसा नहीं करेंगे तब तक देश में भ्रष्टाचार बढ़ा ही रहेगा। इस दृष्टि से मैं बड़ी नम्रता से कहूंगा कि आप इस प्रकार के अवैतनिक न्यायाधीशों को रखने की तैयारी न करें।

और भी बहुत सी बातें हैं जिन को मैं बहुत थोड़े से शब्दों में कहना चाहूंगा। मैं ने प्रारम्भ में बताया कि आज के जनतंत्र में इस प्रकार का भय प्रकट किया जाता है कि हम को यह डर मालूम होता है कि आज जो दलगत राजनीति चल रही है उसी के कारण जब दूसरे दल के विरोध में हम आते हैं तो हमारे साथ न्याय नहीं होगा। यह भय जब दिल्ली में बैठे हुए पार्लियामेन्ट के मेम्बर को मालूम होता है तो वह यों ही नहीं होता है। मैं फैक्ट्स एंड फिगर्स से बता सकता हूं। जब चार महीने मैं विदाउट रिमांड रहा तो जस्टिस अछरू राम के सामने हैबिअस कार्पस की एप्लिकेशन देने की कोशिश की। जस्टिस अछरू राम ने मुझे बताया कि तुम आठ दिन और ठहर जाओ। शायद तुम किसी केस में अभियुक्त होने वाले हो। तुम आठ दिन ठहर कर फिर एप्लिकेशन भेजो नहीं तो पुलिस तुम्हारे विरुद्ध जायेगी। तब तक आप शांत रहिये। चूंकि मैं देखता हूं कि विदाउट रिमान्ड सब बातें की जा रही हैं इसलिये डेट लम्बी दिये देता हूं। इस अभियोग को मैं ने दिल्ली में रहते हुए जज और सेशन जज के सम्मुख रखा। चार महीने मेरा रिमान्ड नहीं लिया गया लेकिन कोई मेरी मदद नहीं कर सका। ऐसे समय में मैं कहता हूं कि जो अभियुक्त या एक्यूज्ड है उस को आप चाहे जो जो संधि दें लेकिन उस के साथ अन्याय ही होगा। जैसा बताया गया पुलिस के सामने जो स्टेटमेन्ट होते हैं उन को आज तक केवल जो अभियुक्त के साक्षी आते हैं वह जो बातें

बताते हैं उन का विरोध करने के लिये, उन को कॅंट्राडिक्ट करने के लिये उपयोग किया जाता था। परन्तु अब यह संधि दी जा रही है कि प्रासिक्यूशन अर्थात् जो अभियोग चलाने वाले हैं वह भी उस का उपयोग कर सकें। इसी प्रकार से अभियुक्त को साक्षी के स्थान पर खड़ा करने का जो सवाल है उस में भी अन्याय होने वाला है आगे चल कर यह हम देख रहे हैं।

[SHRIMATI RENU CHAKRAVARTTY *in the Chair*]

जो सब से बड़ी बात मालूम हो रही है उस के बारे में मैं ने आज गृह मंत्री जी से कहा, और एक प्रकार से मैं उन को धन्यवाद भी देता हूं इस धन्यवाद से कोई गलतफहमी पैदा न हो यह भी मैं बड़ी नम्रता से कहना चाहता हूं बात यह है कि यह विधेयक प्रारम्भ में जिस प्रकार से आया था वह बहुत भयानक था लेकिन अब संयुक्त प्रवर समिति के सम्मुख जाने के पश्चात मैं ने देखा है कि हमारे गृह मंत्री जी ने जो बहुत सी सूचनायें थीं उन को स्वीकार किया है। मैं यह कहने के लिये तैयार नहीं हूं कि उन सूचनाओं को स्वीकार करने के कारण यह विधेयक बहुत अच्छा बना है, लेकिन मैं यह अवश्य कहूंगा कि पहले यह बहुत भयानक था अब कम भयानक हो गया है। प्रारम्भ में उस में इस प्रकार की क्रान्तिकारी योजनायें रखी गई थीं कि हम बहुत हैरान हो रहे थे जैसे किसी का स्टेटमेन्ट ले रहे हैं, वहां पर अभियुक्त रहे या न रहे. लेकिन वह उस के खिलाफ चला रहे हैं। हम देख रहे थे कि एक प्रकार से शीघ्रता के लिये आप न्याय का बलिदान कर रहे थे। मैं ऐसा नहीं मानता हूं कि न्याय का मूल्य दे कर हम आप शीघ्रता करें यह कोई स्प्रहणीय तत्व है। लेकिन अब हम देखते हैं कि बहुत सी बातों में जिन पर हाई कोर्ट ने या इस सदन ने नुक्ता चीनी की थी, हमारे गृह मंत्री जी ने समझौता किया है। लेकिन यह समझौता होने के बाद मेरे मन में एक शक पैदा हुआ। बात यह है कि अनावश्यक बातों पर तो आदमी जरूर समझौता कर लेता है क्योंकि उस के मन में आ गया कि जो दंड प्रक्रिया संहिता है उस में संशोधन करना है लेकिन चाहिये यह था कि उस में ऐसे क्रान्तिकारी संशोधन करने चाहिये थे जो कि न्याय की दृष्टि से आज के अभियोगी तत्वों के अनुसार तथा परिस्थिति के अनुसार न्याय को सुसंगठित करते। इस प्रकार का एक विधेयक यहां पर रखा जाना चाहिये था, लेकिन वह रखा नहीं गया। कई क्रान्तिकारी बातें सदन के सामने रखी गईं और जब क्रान्तिकारी परिवर्तन करने के लिये हमारे गृह मंत्री जी तैयार हुए तब मेरे हृदय में शक हुआ कि इस में किसी दूसरी चीज पर खास ध्यान है, प्रोसीजर पर नहीं है, स्पीडी जस्टिस पर भी नहीं है। मैं तो समझता हूं कि यह जो पूरा विधेयक रखा गया उस को इस कारण से रखा गया था कि इस मुल्क में मिनिस्टरों के ऊपर भीतर और बाहर आघात हो रहे थे। उन को इस से बचाने के लिये एक नया प्रोसीजर उन को रखना था बाकी स्पीडी जस्टिस और एफिशिएन्ट जस्टिस का तो एक नया स्लोगन सामने रखा गया था। यह सब आडम्बर करने के पश्चात हम देख रहे हैं कि मुख्य बात यह है कि मानहानि का जो प्रश्न है उस मानहानि के प्रश्न को एक नया वर्ग बताया गया। रूल आफ दि ला में आज तक यह संधि थी कि राजनीति में रहने वाले बड़े से बड़े आदमी और छोटे से छोटे आदमी जो कानून के दरवाजे में आते हैं सब समान होते हैं। लेकिन अब एक नया प्रिविलेज्ड क्लास यहां बनाया गया जैसे पहले जमीदार, जागीरदार और राजे महाराजे होते थे।

एक माननीय सदस्य : वह तो अब खत्म हो गये।

श्री बी० जी० देशपांडे : वह तो खत्म हो गये लेकिन अब यह नया क्लास बनाया जा

[श्री वी० जी० देशपांडे]

रहा है। पहले मनुस्मृति में होता था कि ब्राह्मण चाहे किसी की हत्या कर दे लेकिन उस को फांसी नहीं दी जा सकती थी क्योंकि ब्राह्मण को कैपिटल पनिशमेन्ट नहीं देना चाहिये। मनुस्मृति में लिखा है कि क्षत्री, वैश्य और शूद्र को फांसी दी जा सकती है लेकिन ब्राह्मण को नहीं दी जा सकती, उसी तरह से यहां कानून बनाया जा रहा है कि इस देश में राष्ट्रपति, गवर्नर, राज प्रमुख और साथ ही साथ मिनिस्टर को भी रखा गया कि उन की मानहानि नहीं हो सकती।

मैं तो कहता हूं कि जनतंत्र के अन्दर मिनिस्टर की आलोचना करना हमारा पवित्र कर्तव्य और अधिकार है। अगर डिमाक्रेसी में हम मिनिस्टर की आलोचना न करें तो हम अपने कर्तव्य से च्युत हो जाते हैं। डिमाक्रेसी का यह उद्देश्य है कि आलोचना करने वाले को बचाया जाय।

इसके साथ ही साथ मैं किसी हद तक पबलिक सरवेंट की बात को मानने के लिये तैयार हूं। मैं यह समझ सकता हूं कि अगर कोई हमारे स्टेट के हेड पर आघात करता है तो उससे हमारी प्रतिष्ठा को धक्का लगता है। इसलिये प्रेसीडेंट आफ दी रिपबलिक, वाइस प्रेसीडेंट आफ दी रिपबलिक, राजप्रमुख और गवर्नर की बात तो मैं मान सकता हूं लेकिन मिनिस्टर की नुक्ताचीनी करना तो हमारा कर्त्तव्य है क्योंकि वह जनता के प्रति उत्तरदायी है। हम नहीं चाहते कि मिनिस्टर को खास संरक्षण दिया जाय। इस सिलसिले में मैं आपको एक उदाहरण दूंगा। एक राज्य के मुख्य मंत्री पर बहुत से आरोप लगाये गये कि उनके शासन में बहुत सा भ्रष्टाचार हुआ है। आखिर एक आदमी ने दंड प्रक्रिया के अन्तर्गत उन पर अभियोग लगाया तो मजिस्ट्रेट ने बतलाया कि चीफ मिनिस्टर पर बिना सरकार की अनुमति के अभियोग नहीं चलाया जा सकता। अब मैं ने सुना है कि उसके लिये सुप्रीम कोर्ट से लीव मिल गयी है। तो इस प्रकार एक आदमी की कोर्ट में जल्दी मिनिस्टर के विरुद्ध सुनवाई नहीं होती। अब इस कानून के अन्तर्गत यह होगा कि यदि कोई नुक्ताचीनी करेगा तो उसके विरुद्ध पबलिक प्रासीक्यूटर खड़ा हो जायगा कि तुमने मानहानि क्यों की। हमारे गृह मंत्री जी कहते हैं कि सरकार मामले को जनता के सामने ले आवेगी और ओपिन इन्क्वायरी करवायेगी। मैं कहना चाहता हूं कि डिफेमेशन केस और ओपिन इन्क्वायरी एक ही बात है। आपको कई दफा डिफेमेशन केसेज में इस तरह के जजमेंट मिलेंगे जिनमें कहा गया है कि ट्रुथ इज नो डिफेंस। अगर यह कानून पास हो गया तो इससे जनता को किसी प्रकार की सहूलियत नहीं मिलेगी। आप कहते हैं कि कोई भी जब बार बार मिनिस्टर या गवर्नमेंट सरवेंट की नुक्ताचीनी करता है तो हम ओपिन इन्क्वायरी करेंगे। लेकिन मैं देखता हूं कि इस तरह से आप डिफेमेशन के कम्प्लीकेटेड ला के अन्दर उस नुक्ताचीनी करने वाले का गला पकड़ना चाहते हैं। इस का उपयोग आप किसी भी पबलिक वर्कर के खिलाफ करेंगे जो कि व्याख्यान द्वारा मिनिस्टर की नुक्ताचीनी करता है। मुझे तो यही शक हो रहा है। जैसा मैं ने कहा था मुझे इसमें यही बात मुख्य मालूम होती है, और बाकी तो अधिकतर आडम्बर मात्र है। हां, कोई कोई बातें अच्छी हैं जिनके लिये मैं गृह मंत्री जी को धन्यवाद देता हूं कि इस हद तक उन्होंने जनता की आवाज को सुना। यद्यपि मैं देख रहा हूं कि यह पूरे तौर पर अभियुक्त को फायदा देने वाला कानून नहीं है फिर भी किसी हद तक इसको बनाने में जनता की इच्छा का ध्यान रखा गया है। परन्तु इसमें डिफेमेशन की बात ही मुख्य है। यह इस सदन का निश्चित मत है कि खास

कर के मिनिस्टर को तो अपवाद में नहीं रखना चाहिये। लेकिन यदि आप मिनिस्टर के विषय में इसको रखना चाहते हैं तो मैं कहूंगा कि लोक सभा के सदस्यों के लिए भी यही प्रावीजन इस कानून में होना चाहिये।

डा० काटजू : जरूर, जरूर।

श्री वी० जी० देशपांडे : यद्यपि मैं ऐसा नहीं चाहता, परन्तु यदि यह संरक्षण मिनिस्टर को दिया जाता हैं तो मैं यह चाहूंगा कि लोक सभा और राज्य सभा के सदस्यों को भी यह संरक्षण दिया जाय। मैं इस सदन और दूसरे सदन में कोई भेद नहीं करना चाहता।

यह विधेयक संयुक्त प्रवर समीति के सम्मुख रखे जाने के बाद जैसा आया हैं उसका मैं विरोध करता हूं। यह मनोवृत्ति मैं मानने के लिये तैयार नहीं हूं। मैं यह कहने के भी खिलाफ हूं कि बहुत से अभियुक्त छूट रहे हैं इसलिये इस तरह का कानून लाना चाहिये। अगर बहुत अभियुक्त छूटते होंगे तो उसका कारण पुलिस विभाग का भ्रष्टाचार हैं, परन्तु इसका सारा दोष केवल पुलिस को ही नहीं दिया जा सकता हैं। आपके यहां मजिस्ट्रेट कम हैं, उनकी नियुक्ति अच्छी नहीं होती, आपका शासन अच्छी तरह से नहीं चल रहा हैं, और इसी कारण न्याय पद्धति का कार्य ठीक से नहीं चल रहा हैं। परन्तु इसी के साथ साथ मैं यह मानने को तैयार हूं कि कानून को बदलने की आवश्यकता हैं। अंग्रेजों ने इस कानून को बहुत समय हुआ बनाया था। और अब इसको बदलना चाहिये पर इसका यह मतलब नहीं हैं कि मैं अंग्रेजों की न्याय पद्धति पर आक्षेप करता हूं। मैं तो उसका प्रशसंक रहा हूं। उनका कानून न्याय पर आधारित हैं। यह न्याय पद्धति तो विश्व को और हिन्दुस्तान को अंग्रेजों की एक बड़ी देन हैं। परन्तु अब परीस्थीतियां बदल गयी हैं इस लिये कानून को बदलना चाहिये। अब डिमाक्रेसी में इंडीवीजुअल पर ज्यादा खतरा आ गया हैं और उसको प्रोटेक्शन की ज्यादा जरूरत हैं। डिक्टेटरशिप में और मौनर्की में तो इंडीवीजुअल को प्रोटेक्शन रहता हैं लेकिन डिमाक्रेसी में जब कि एक पार्टी पबलिक के नाम से दूसरी पार्टी का निर्दलन करती हैं तो इस समय जुडीशियरी हाई कोर्ट और सुप्रीम कोर्ट ही हमारी रक्षा कर सकती हैं। हमारा तो यह अनुभव हैं कि जो अंग्रेजों की न्याय पद्धति हैं वही अभी तक चल रही हैं और इसी कारण जब गवर्नमेंट हम पर अन्याय करती हैं तो यह न्याय पद्धति हमको बचाती हैं। परन्तु आज इस डिमाक्रेसी में हम देखते हैं कि व्यक्ति को अपनी स्वतंत्रता के लिये ज्यादा प्रोटेक्शन चाहिये। और इसी दृष्टि से हमको न्याय पद्धति में परिवर्तन करना चाहिये। ऐसा करने के लिये एक समीति नियुक्त की जाय जो इंडियन पीनल कोर्ड, क्रिमिनल प्रोसीड्यौर कोर्ड, और सारे सम्बन्धित विधान पर विचार करके संशोधन उपस्थित करें और उनको इस सदन के सम्मुख पेश किया जाय। जब तक यह काम हो तब तक के लिये इस बिल को मुल्तबी कर दिया जाय यही मेरी प्रार्थना हैं।

Shri Pataskar: I think there has been a good deal of discussion on the Report submitted by the Joint Select Committee which was appointed to consider the Bill which was introduced by the Government. I look upon this measure not from any particular political point of view or party point of view, and I would appeal to every Member whether he belongs to this party or the other, whatever difficulties those that are in power at the present moment may have in the matter of execution of their policy, or whatever difficulties even the Opposition may have for the purpose of beating those policies that they do not like, it is hardly a matter we should seriously agitate our minds on when we are considering a Bill of this nature.

The necessity for the amendment of the Code of Criminal Procedure was

[Shri Pataskar]

certainly there; and I think nobody whom I have heard till now has said a word that it is not there. Because, the present Code of Criminal Procedure was enacted long years back, probably first in 1898, and then even by the foreign government it came to be amended in 1923 or so. And the time certainly was ripe when something should have been done in order that, without in any way trying to do away with the prinicples that underlie the jurisprudence, so far as the administration of criminal justice is concerned a change was made. There was no doubt that a change was needed. And there was a unanimous cry in the country that the administration of criminal justice must be made cheap and expeditious. I have heard it from the mouths of several Judges, eminent jurists and all manner of politically minded persons. Therefore this should hardly be the occasion for levelling the criticism against this measure simply from any political point of view. Even if tomorrow the Congress Party does not sit on the Government Benches and any other Government comes it cannot overnight change the Criminal Procedure. Therefore, I would appeal to all Members of the House to look at this measure, which in my opinion is going to vitally affect the administration of criminal justice in our country, from that point of view. I think if we all concentrate our attention from this point of view, our points of difference should be the minimum that could be imagined. Therefore, I would appeal that we should look at it from that point of view. All criticism as to whether A, B or C is the Home Minister in charge of this, whether the Congress Party is in power or what they have done is hardly a matter to be taken seriously into account for the purposes of amending the present Code of Criminal Procedure. Of course, if there is anything that is being attempted to be done for furthering the interests of the party in power, well, the Opposition will legitimately have the right to criticise. But to take it beyond that would not be proper. Therefore, I strictly look at it from the point of view of administration of justice so far as the criminal jurisprudence is concerned.

Whatever may have been done by the English people in the past in other matters, it is true that as they had to govern us from a distance of 4,000 miles, they tried to keep the administration of justice between man and man as fair as they could possibly do, and I do not think any of the critics of that administration will be in a position to challenge this position. Probably any other indigenous Government would not have been so scrupulously careful so far as the administration of justice between man and man was concerned, but they had to be because they wanted to keep the country under their domination contented. And it is from this point of view that we should look at the basic principles of the administration of criminal justice in our country. And from that point of view, certain principles arise. They are oft-repeated, and I will not go into that.

Then, what was the necessity for this? The necessity was that we thought, and it was rightly thought on all sides, that the administration of justice was very lengthy, dilatory, the trials were protracted. There might be many causes. We know that all the fault cannot be attributed merely to the administration of justice because I would say as one who has been practising in different courts for the last thirty years and more that wherever there was a good Judge, quite naturally there was the least delay. On the contrary, I know of cases where matters were inordinately delayed. So, you cannot lay every thing at the door of the procedure itself. But, certainly, that is a matter which even if we discuss at length here now, for the purposes of this Bill is of no use.

I have heard a good deal of comment against the administration of the police. Nobody says that the administration of police in this country at the present moment is very ideal, that it is all that it should be.

Shri R. K. Chaudhuri: Far from it.

Shri V. P. Nayar: It is despicable.

Shri Pataskar: I do not think even those in power will say that the administration of police in this country is very satisfactory. So far as administration of justice between man and man was concerned, the police had a double role to play. They had not only to see that justice was done between man and man. They had also to protect and guard the interests of the foreign Government. Therefore, the composition of the police in India is not the same as in England. They introduced in our country the same principles so far as justice between man and man was concerned which prevailed in England, but so far as this aspect was concerned, it was different.

I clearly remember that when I was a young student many years back I came across a gentleman who had come recently from England. I think it must be in the year 1919 or so. He was a solicitor. He is still in Bombay. And then I asked him: "Well, what do you think of the police here"? He said that in England the policeman was the most respected person. In our country unfortunately it was not so because....

Shri R. K. Chaudhuri: He is the most feared man.

Shri Pataskar: ...the police had to play a double role. Therefore, we should also take this factor into account that the police force was meant for a double purpose. And I would say as a lawyer I also come across many cases in which I find the police in our country, to a large extent on account of this psychological effect, are not what they should be. Can you change them overnight? Is it possible for any party to say: "No. The police that is working now in the country should be changed immediately."

Shri S. S. More: What is the minimum period?

Shri Pataskar: There should be some process. Therefore, I would say we have to see whether any improvement has not been made. On that point there might be difference of opinion. I would say let not that be the main consideration at the time of considering a measure like this. That certainly is overdue. It may be argued by my friend Mr. More—even I might agree with him—that it is overdue, but the question how to carry it out is a matter which might, in spite of the Home Minister or the present Government agreeing with us on that matter, present difficulties.

Shri S. S. More: Cease to be bureaucratic.

Shri Pataskar: Because I do not think anybody who has been a lawyer in this country for a considerable time, having had some experience in the courts, will ever say that so far as the police is concerned, it is all that could be desired, because, as I said, in the very nature of things, just as they gave us good jurisprudence, they also gave an inheritance. You cannot choose. You have to take the right with the wrong. That is the system which we have got, but I would submit that so far as I can find there is a change. Now, the police in this country are subjected to public opinion. The police are not now uninfluenced by public opinion. They cannot do things which under a foreign Government they could do. Therefore, there is also that factor working, and if we have patience, I trust and believe that in the course of time, apart from the question of Government, it will improve.

But let us not dilate on this point. So far as the Code of Criminal Procedure is concerned, whatever kind of police come or occupy these places, the Procedure will be there. Therefore, let us examine this Procedure Code from that point of view. Let us not dilate on what are the other contributory causes. Let us concentrate on what is

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being done so far as this Bill is concerned.

This Bill was first, of course, introduced in some other form by the hon. Home Minister, Dr. Katju. Government must have bestowed—and I know he did—a good deal of thought as to how justice could be made cheap and expeditious and they tried to obtain all manner of opinions from those who had experience of the working of this Act and then put forth a certain Bill. That Bill was referred to the Select Committee which consisted of about 49 members taken from all sections of the House, and therefore, when we criticise that Bill now when it has come in this form—which I also to some extent am going to do—the criticism is not against the Home Minister, not against this Government, but against what by their collective wisdom the selected persons from this House have produced. I do not want to blame them also because this is such a task in which people look at it from different angles of view. Justice in the abstract is all right, but there must have been 49 people who looked at that problem from probably 49 or less angles and naturally they produced something which we have now to judge at this stage as to whether it is right and proper. Therefore, all criticism levelled against individuals, parties etc., to my mind, should be left out of consideration, and we should try to see whether what has been placed before us by the Select Committee is the right thing, whether it is capable of any improvement, if so what should be made, whether it does or does not violate the basic principles of jurisprudence on which it ought to be based—because this is a measure which is going to last for years more, and therefore I would appeal to the hon. Members that we should look at this measure from that point of view.

With this preface, Sir, I would like....

Shri R. K. Chaudhri: "Sir" again.

Mr. Chairman: The Chair has no sex. The hon. Member can go on.

Shri Pataskar: And by force of habit it does not come quickly.

I shall first of all try to refer to some of the controversial clauses.

An Hon. Member: Tomorrow.

Shri Pataskar: Shall I do it tomorrow?

Mr. Chairman: There is just one minute more.

Shri Pataskar: Then the first is that covered by clause 25. The most controversial clause which has been tried to be introduced and which was not in existence in the previous Criminal Procedure Code is what is tried to be done by clause 25, by the addition of section 198B: "Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions". So far as I find, this is a protection or rather a sort of remedy for certain purposes being given to some three classes of people. Firstly:

> "Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (Act XIV of 1860) is alleged to have been committed against the President..."

I find there has not been much discussion so far as giving protection to the President is concerned.

> "...or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister..."

Mr. Chairman: I think he will take quite some time more. So, I think we can continue tomorrow.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 18th November, 1954.

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